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1934

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Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

HANDLING OF MILK IN CERTAIN MARKETING AREAS

Determination of Equivalent Prices for Grade AA (93-Score) and Grade A (92-Score) Butter at Chicago

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Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and to the applicable provisions of the orders, as amended, regulating the handling of milk in the aforesaid milk marketing areas (7 CFR Part 900), herein-after referred to as the "orders" it is hereby found and determined as follows:

(1) Inasmuch as the daily wholesale selling prices for Grade AA (93-score) and Grade A (92-score) butter on the Chicago market, as reported by the Dairy and Poultry Market News Service, Agricultural Marketing Service, United States Department of Agriculture, and employed in the orders as factors in the formulas for computing the class prices and butterfat differentials, are not available on a number of days during the period from October 25 through November 30, 1959, and the averages of the limited number of daily prices reported are not representative of such prices for the month of November 1959 or for any continuous 31-day period between October 25 and November 30, 1959, it is hereby determined that the equivalent price for Grade AA (93-score) butter at Chicago for November 1959 shall be 64.33 cents and the equivalent price for Grade A (92-score) butter at Chicago shall be 63.93 cents for the period October 25 through November 24, 1959, 63.61 cents for the period October 26 through November 25, 1959,

(2) Notice of proposed rule making, public procedure thereon and 30 days prior notice to the effective date hereof are impractical, unnecessary and contrary to the public interest, in that (a) the daily wholesale selling prices for Grade AA (93-score) and Grade A (92-

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score) butter on the Chicago market have not been reported by the Dairy and Poultry Market News Service, Agricultural Marketing Service, United States Department of Agriculture, on a number of days during the period from October 25 through November 30, 1959, and the averages of the limited number of daily prices reported are not representative of such prices for the month of November 1959 or for any continuous 31-day period between October 25 and November 30, 1959; (b) the determination of an equivalent price immediately is necessary to make possible the announcement of the minimum class prices and butterfat differentials under the orders in valuing producer milk received by handlers during the months of November 1959 and December 1959; (c) an essential purpose of this determination is to give all interested persons notice that the averages of Grade AA (93-score) and Grade A (92-score) butter prices reported by the Dairy and Poultry Market News Services for November 1959 or for any continuous 31-day period between October 25 and November 25, 1959, are not being used for the purpose of the price computations required in connection with the computation of class prices and butterfat differentials under the aforesaid orders; and (d) this determination does not require substantial or extensive preparation of any person.

Issued at Washington, D.C., this 2d day of December 1959.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-10333; Filed, Dec. 7, 1959;
8:47 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter V—Bureau of Employment Security, Department of Labor

PART 602—COOPERATION OF UNITED STATES EMPLOYMENT SERVICE AND STATES IN ESTABLISHING AND MAINTAINING A NATIONAL SYSTEM OF PUBLIC EMPLOYMENT OFFICES

Correction

In Federal Register Document 59-9886, appearing in the issue for Friday, November 20, 1959 (24 F.R. 9367), the following change shall be made:

In paragraph (a) of § 602.8 the word "Interstate" appearing on line 9 of that paragraph is hereby changed to "intra-state".

Signed at Washington, D.C., this 1st day of December 1959.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 59-10331; Filed, Dec. 7, 1959;
8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER M—MISCELLANEOUS

PART 151—NATURALIZATION OF ALIEN SPOUSES AND/OR ALIEN ADOPTED CHILDREN OF MILITARY AND CIVILIAN PERSONNEL ORDERED OVERSEAS

The Deputy Assistant Secretary of Defense (Manpower, Personnel and Reserve) approved the following on November 20, 1959:

Sec.

- 151.1 Purpose.
- 151.2 Applicability.
- 151.3 Policy.
- 151.4 Procedure.

AUTHORITY: §§ 151.2 to 151.4 issued under R.S. 161; 5 U.S.C. 22.

§ 151.1 Purpose.

The purpose of this part is to establish uniform procedure, acceptable to the Immigration and Naturalization Service of the Department of Justice, for military certification of alien dependents seeking naturalization under the Immigration and Nationality Act of 1952, sections 319(b), 320, 321, 323 (a), (b) and (c) (8 U.S.C. 1430(b), 1431, 1432, 1434).

§ 151.2 Applicability.

The provisions of this part are applicable to alien spouses and/or alien adopted children of military and civilian personnel of the Department of Defense who are authorized to accompany or join their sponsors overseas and who wish to obtain United States citizenship prior to departure.

§ 151.3 Policy.

(a) It is the policy of the Department of Defense that maximum assistance will be given by military installation commanders to alien dependents of personnel ordered overseas, to expedite their naturalization in order to accompany or join their sponsors when authorized to do so by regulation and approval of the oversea commander.

(b) It is further the policy of the Department of Defense that the certification as to dependents' authority to accompany or join their sponsors abroad, essential to the naturalization proceedings under the statutes cited in § 151.1, will be uniform for all Services and will be issued only at the times and in the manner described herein.

§ 151.4 Procedure.

The following procedure has been developed in conjunction with the Immigration and Naturalization Service, Department of Justice, to effect the timely and orderly processing of alien dependents eligible for naturalization under the statutes cited in § 151.1. Deviation from prescribed procedure, use of non-standard forms of certification, or failure to submit required documentation may result in delay in the attainment of

citizenship prerequisite to the issuance of passport, which will in turn delay the dependents' overseas movement.

(a) Application for petition for naturalization will be made by the alien dependent on Immigration and Naturalization Form N-400 (adult) or N-402 (child), as applicable. These forms may be obtained from any office of the Immigration and Naturalization Service, or from any court having naturalization jurisdiction. The application may be filed when it is definitely established that the sponsor is being assigned overseas, or may be deferred until date of scheduled departure of the dependent is certified by the appropriate military commander (see paragraph (b) of this section).

(1) Application for petition for naturalization will be submitted to the nearest Immigration and Naturalization Service office and must be accompanied by:

- (i) Three identical photographs.
- (ii) Form FD 258, Fingerprint Card, bearing fingerprints of the applicant.

(2) No further action in naturalization proceedings can be taken until certification of the dependents' scheduled departure for overseas is made by the appropriate military commander.

(b) Certification of Dependents' authorization to Proceed Overseas: DD Form 1278, "Certificate of Oversea Assignment to Support Application to File Petition for Naturalization", will be issued to alien dependents by military commanders at the times indicated below in order that the alien may file such certificate with the nearest Immigration and Naturalization Service office to initiate naturalization proceedings. Only DD Form 1278 will be accepted by the Immigration and Naturalization Service and military commanders will not issue memoranda or letters of any kind in lieu thereof.

(1) When dependents are authorized automatic concurrent travel, DD Form 1278 will be issued not earlier than 90 days prior to the scheduled date of travel of the individual.

(2) When advance application for concurrent travel is required, DD Form 1278 will be issued after approval is received and not earlier than 90 days prior to the scheduled date of departure of the individual.

(3) When concurrent travel is not authorized, DD Form 1278 will be issued after authorization for dependents' movement is received, and not earlier than 60 days prior to scheduled date of dependents' travel.

(c) Filing with Immigration and Naturalization Service: Upon receipt of DD Form 1278, the alien will file this form, together with the application for petition for naturalization, if not previously filed, with the nearest office of the Immigration and Naturalization Service. Further processing of the application for citizenship is as prescribed by the Immigration and Naturalization Service. Upon completion of the naturalization process, immediate application for passport should be made, in order that it can

¹ Filed as part of the original document.

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be issued prior to scheduled departure of the dependent for overseas.

MAURICE W. ROCHE,
Administrative Secretary.

DECEMBER 2, 1959.

[F.R. Doc. 59-10332; Filed, Dec. 7, 1959;
8:47 a.m.]

Chapter VII—Department of the Air Force

SUBCHAPTER J—AIR FORCE PROCUREMENT INSTRUCTIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following miscellaneous amendments are issued to this subchapter:

PART 1001—GENERAL PROVISIONS

Subpart A—Introduction

1. In § 1001.107, paragraph (b) is revised to read as follows:

§ 1001.107 Effective date.

(b) Use of new or revised Air Force Procurement Instruction contract clauses, whether issued by page revisions or by an AFPC, shall, unless otherwise specified, be mandatory 90 days after date of issuance. However, procurements initiated after receipt of the new or revised clauses by the purchasing activity should, to the maximum practicable extent include such clauses prior to the mandatory date. If, in the following situations, compliance with the mandatory date is impracticable, procurements may be completed on the basis initiated: When, prior to the mandatory date for use of the new or revised clause: (1) DD Forms 746 and 746-1 have been issued, and the award is to be made by means of DD Form 746-2, (2) Invitations for Bids have been issued, or (3) bilateral contractual documents have been submitted to contractors and introduction of the new or revised clause may delay the procurement.

Subpart B—Definition of Terms

1. The title of Subpart B is revised as shown above.

2. Sections 1001.201-1 through 1001.201-5 are added as follows:

§ 1001.201-1 Department and Military Department.

See § 1.201-1 of this title.

§ 1001.201-2 Secretary.

See § 1.201-2 of this title.

§ 1001.201-3 Procuring activity.

See § 1.201-3 of this title.

§ 1001.201-4 Head of a procuring activity.

See § 1.201-4 of this title.

§ 1001.201-5 Contracting officer.

In addition to the personnel set forth in § 1.201-5 of this title, the term "officer" is defined to include senior noncommissioned officers who (a) Hold AFSC 65170 or 65080, (b) are in supervisory positions prior to appointment, and (c) have the requisite procurement experi-

ence and other qualifications (see § 1001.452): *Provided*, That the authority of individuals so appointed is limited to executive purchase and delivery orders (and amendments thereto) within the monetary limitation of \$2,500 and under.

Subpart D—Procurement Responsibility and Authority

1. In § 1001.457, subparagraph (8) of paragraph (a) is revised to read as follows:

§ 1001.457 Authority to enter into, execute and approve contracts.

(a) ***

(8) *Deputy Directors of the Directorate of Procurement and Production, Hq AMC.* Normally, the authority with respect to manually approving contracts, involving \$1,000,000 or less, that are subject to manual approval of a duly authorized official of the Directorate of Procurement and Production, Hq AMC, because of limitations on delegated authority, will be exercised by a Deputy Director of the Directorate of Procurement and Production, Hq AMC. Such contracts involving more than \$1,000,000 are normally approved by the Director of Procurement and Production, Hq AMC, but in his absence may be approved by one of the Deputy Directors, or by an individual officially designated as "Acting" in one of the above capacities. For the purpose of the dollar limitations in this subparagraph, acquisition cost on any industrial facilities to be furnished under a facilities contract will not be added to the amount of funds being obligated on that contract.

2. In § 1001.465, paragraph (a) is revised to read as follows:

§ 1001.465 Release of program data and procurement information.

(a) Information concerning proposed procurement and purchases of supplies, including construction and maintenance projects, will not be released prior to the issuance of invitation for bids or requests for quotations. In the preparation of work projects estimates, local contractors often render invaluable aid to AF base personnel in supplying information concerning local wage rates, material costs, etc. The Air Force does not intend that such contracts be curtailed; however, preliminary or approved project estimates will not be discussed with prospective contractors or made a matter of public knowledge (except as provided in § 1.304(c) of this title and § 1002.407(d) of this chapter) until after an award has been made, whether the contract is advertised or negotiated. The foregoing statement is particularly applicable to engineers and project estimators of AF installations or maintenance offices and to purchasing and contracting personnel.

Subpart G—Small Business Concerns

1. In § 1001.750, paragraph (g) is revised, and paragraphs (h) and (i) are deleted, as follows:

§ 1001.750 Additional procedures for AMC.

(g) The small business specialist will complete Part II of AFPI Form 46,

"Small Business Procurement Record," and retain the completed form in his file if the abstract does not provide sufficient information. AFPI Form 46C, "Small Business Cross Reference Card," will be used if cross reference file is required.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1002—PROCUREMENT BY FORMAL ADVERTISING

Subpart B—Solicitation of Bids

1. In § 1002.201, subparagraph (3) of paragraph (c) is revised to read as follows:

§ 1002.201 Preparation of forms.

(c) *Schedule.* ***

(3) *Discount provisions.* See § 2.406-2 of this title and § 1002.406-2.

2. In § 1002.204-1, a new paragraph (b) is added; paragraph (c) is deleted and reserved; the present paragraph (b) is redesignated paragraph (d); present paragraphs (d) through (g) are redesignated paragraphs (e) through (h), respectively, as follows:

§ 1002.204 Bidders' mailing lists.

§ 1002.204-1 General.

(b) *Principles of maintaining bidders' mailing list.* Except as exempted by § 2.204 of this title, a bidders' mailing list (mechanized or otherwise) will be maintained by each purchasing office of firms who desire to be considered as sources of supply. After completion of a contract award, whether formally advertised or negotiated, the bidders' mailing list used for such procurement, together with the names added by the buyer, contracting officer, or small business specialists or those names added as a result of requests by firms or their representatives will be forwarded by the buying activity to the activity responsible for maintaining the bidders' mailing list so that such added names are recorded for future use. This bidders' mailing list will be supported by correspondence indicating "no bid", "inability to produce item but desire to be retained on the list", "requests for removal from the list", and "requests to be placed on the list for future procurement"; AFPI Form 2, "IFB Information," if applicable; and one copy of the abstract. The activity responsible for maintaining the bidders' mailing list will:

(1) Delete, according to the provisions of § 2.204-3 of this title, companies for appropriate item, if they fail to respond.

(2) Delete companies for appropriate items if they request deletion.

(3) Retain companies who cannot bid but request retention on the list.

(4) Contact any companies not in the mechanized system and invite them to become established as potential sources.

3. Section 1002.204-52 is added as follows:

§ 1002.204-52 Commodity class catalogs (commodity lists).

(a) This section provides for the issuance, maintenance, and distribution

of commodity class catalogs or commodity lists.

(b) This section applies to the Directorate of Procurement and Production, HQ AMC, and AMC centers, and AMC prime procurement activities assigned prime class procurement.

(c) AMC procurement activities assigned the central procurement responsibility of AF commodity classes will prepare, issue, maintain, and distribute commodity class catalogs or commodity lists. The purpose of such lists is to provide a medium whereby potential suppliers can easily identify and select items they are capable of furnishing to the purchasing office concerned. The lists will be revised when necessary and a periodic review will be made at least semiannually to insure that the lists are up to date. AFPI Form 24, "Commodity List Data," will be distributed with the commodity class catalog for use by the potential supplier to list the items selected.

(d) Commodity class catalogs or commodity lists will meet the following requirements:

(1) A "foreword" or introductory page will set forth a general index and descriptions of classes procured by the activity and such explanatory comments necessary to help potential suppliers identify and select items. The complete address of the procuring activity will be included. The telephone number of the base and appropriate extension may be included except that individual buyers will not be listed by name.

(2) Items for which procurement responsibility has been assigned to a procuring activity other than the Air Force will generally be excluded. However, those Federal Supply Class (FSC) and Management Aggregate Codes (MAC) where AF procurement could be accomplished in cases of emergency or unusual circumstances may be indicated by an asterisk with an explanatory note on the instruction page.

(3) Nomenclature used will be consistent with that appearing in the Air Force supply catalog or Federal classification system.

(4) Nomenclature of spares and components will be excluded when such items are normally furnished by the firm producing the end item.

(5) Closely related items will be consolidated into a single listing. However, consolidation will be limited to prevent the listing of a nomenclature so general as to encourage the selection of the item by a wide range of manufacturers some of whom would not in fact make the actual item.

(6) Listing of specification numbers will be excluded to prevent the possibility of wholesale and premature requests for material of this nature by the manufacturer.

(7) References to trade names and manufacturers' names, part numbers, or model numbers will be avoided.

(8) The resultant catalog will be restricted in size to permit distribution to all interested firms. Trim size of the page will not exceed 8 1/2 by 11 inches.

(9) The use of mechanical reference numbers will be coordinated with the statistical activity in the comptroller organization.

(e) Each issuing activity will make automatic distribution of sufficient copies of each commodity class catalog or commodity lists and revisions thereto to small business specialists at air procurement districts and air procurement offices and to contractors' relations activities at AMA's, AF depots, Aeronautical Systems Center (LMPC), and Ballistic Missile Center (LBS) to facilitate servicing interested suppliers as provided in § 1002.204-1(c). In addition, two copies each will be sent to AMC (MC-PPC), and to the AF-MIPR liaison offices listed in AMCM 170-1, as well as other distribution required.

4. Section 1002.251 is deleted and the following substituted therefor:

§ 1002.251 DD Form 1260, "Amendment to invitations for bids."

After issuance of IFB's, it may become necessary to make changes in quantities, specifications, delivery schedules, etc., or to correct a defective or ambiguous invitation. Such changes will be accomplished by formal amendment (DD Form 1260) to the invitation as prescribed by §§ 16.101 and 16.102 of this title and §§ 1016.101 and 1016.102 of this chapter.

(a) Each amendment (DD Form 1260) will:

(1) Be serially numbered as issued with a separate series of numbers used for each invitation. For example, the first amendment to an invitation would be Amendment No. 1.

(2) Clearly indicate the nature of the changes made therein and the extension of the opening date, if any. When no extension of time is involved, the amendment will so state.

(3) Purchase Request (PR) and Military Interdepartmental Purchase Request (MIPR) numbers applicable to the IFB may be inserted in the "Purchase Authorization" block when desired.

(b) The remaining blocks of the DD Form 1260 are self-explanatory.

(c) In each case where an amendment is necessary, consideration must be given to the period of time remaining until bid opening and the need for extension of time. An amendment will not be issued when less than 10 days remain without extending the period to at least 10 days, except in case of emergency.

(1) When such emergency will not permit 10 days to intervene, the contracting officer will make a written determination that: (i) It is impracticable to extend the period to 10 days, and (ii) a period of less than 10 days will be sufficient to allow bidders to review and return the amendment prior to bid opening. This determination will be made a part of the contract file resulting from the IFB.

(2) If changes to the invitation involve additional work by the bidders or duplication of bid preparation already accomplished, a longer period of time should be allowed whenever practicable.

(d) In the event of a short period of time remaining before bid opening, bidders should be notified of the changes and extension of time to the invitation by telegraphic or telephonic means to insure notification and to preclude bidders departing for the place of bid opening. Such telegraphic or telephonic

notification of amendment to an invitation will be confirmed by a written amendment which will contain all of the information required by paragraphs (a) and (b) of this section.

Subpart D—Opening of Bids and Award of Contract

1. Section 1002.406-2 is deleted and the following substituted therefor:

§ 1002.406-2 Discounts.

(a) The discount provisions on the bid portion of Standard Form 33 and in the approximate center of the Schedule, Standard Form 31, relating to "10 calendar days," "20 calendar days," and "30 calendar days" may be deleted only when it is definitely known that final acceptance cannot be accomplished, or that payment cannot be effected within the period of time from date of delivery or from date of receipt of invoice, whichever is later. To accomplish this, the blanks referred to will be X'd out and the word "none" inserted after "as follows." This authority will be used sparingly. In special cases where a prolonged acceptance test is necessary, and the invitation or specifications set a limiting date for acceptance that is more than 20 days after date of delivery, the provision in the form on computation of discount (Condition 7 on Reverse of Standard Form 30 and 33) may be changed by special provisions to read as follows: "Time, in connection with the discount offered, will be computed from the limiting date set herein for final acceptance." When the change is made, the limiting date for final acceptance must be stated in the invitation.

(b) See § 2.406-2(b) of this title.

2. In paragraph (b) of § 1002.407, subparagraphs (2) through (5) are redesignated (3) through (6) and a new subparagraph (2) is added, as follows:

§ 1002.407 Information to bidders.

*(b) *Information concerning awards made.* *

(2) Contracting officers will furnish the name and address of the successful supplier and the actual contract line item prices on unclassified procurements. In some instances providing such information may entail selective preparation of lengthy lists of bidders or items, or other clerical work of sufficient extent to interfere with the normal operations of the contracting office. The contracting officer may courteously decline to furnish the information if to furnish it will interfere with the normal operations of that office. It is suggested that the inquirer be advised that the information is too extensive to be compiled and transmitted at Government expense, and that the abstract of bids will be made available for inspection in the purchasing activity and in the Procurement Information Center, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Room 732, Old Post Office Building, Washington 25, D.C. Disclosure of information relative to contracts resulting from advertising will not include the reason for selecting a particular source except in a particular case where the inquiry is initially made by an unsuccessful bidder who is lower in price than

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the successful bidder, in which instance, sufficient information will be furnished in the reply to fully explain the basis for award.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

A new Subpart V is added as follows:

Subpart V—Auctioneering Services

| Sec. | |
|-------------|--|
| 1002.2200 | Scope of subpart. |
| 1002.2201 | Applicability of subpart. |
| 1002.2202 | Establishment and utilization of the "List of Auctioneers Qualified to Sell Government-Owned Personal Property." |
| 1002.2202-1 | General. |
| 1002.2202-2 | Changes. |
| 1002.2202-3 | Inactivation or debarment of auctioneers on the list. |
| 1002.2203 | Procurement of auctioneering services. |
| 1002.2203-1 | Formal advertising for auctioneering services. |
| 1002.2203-2 | Bids received from auctioneers not on the list. |
| 1002.2203-3 | Auctioneers compensation. |
| 1002.2203-4 | Special provision. |

AUTHORITY: §§ 1002.2200 to 1002.2203-4 is issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

§ 1002.2200 Scope of subpart.

This subpart prescribes policies and procedures for: (a) The use of the "List of Auctioneers Qualified to Sell Government-Owned Personal Property," established by the General Services Administration, (b) the recommendation to the GSA for placement of auctioneers in an inactive status, (c) the debarment of auctioneers, and (d) the procurement of auctioneering services.

§ 1002.2201 Applicability of subpart.

This subpart applies to all AF activities concerned with auctioneer contracts in geographical areas covered in the "List of Auctioneers Qualified to Sell Government-Owned Personal Property."

§ 1002.2202 Establishment and utilization of the "List of Auctioneers Qualified to Sell Government-Owned Personal Property."

§ 1002.2202-1 General.

(a) The official publication of the "List of Auctioneers Qualified to Sell Government-Owned Personal Property" (referred to hereafter as the "List"), is published quarterly and maintained by the GSA. It will be used by all AF activities in the selection of auctioneers to sell Government-owned personal property. The List contains the names of auctioneers who are qualified to conduct sales of Government-owned personal property, the date of their most recent qualification, the rating codes which indicate special qualifications as to the size of sale and the category or categories of personal property they may sell, and the geographical areas in which they may conduct auction sales for the Government.

(b) GSA will furnish copies of the List and interim notices to Hq USAF (AFMPP-PR), Hq AMC (MCPP), and each AMA and AF depot for their use. The AMAs will provide a copy of the up-to-

date List and interim notices to activities within their appropriate areas concurrently with the AMA approval to conduct an auction sale.

§ 1002.2202-2 Changes.

(a) Interim notices to the List will be issued by GSA whenever necessary to keep activities currently informed as to newly qualified, inactivated, debarred, and reinstated auctioneers. These notices will be distributed to the activities specified in § 1002.2202-1(b).

(b) Auctioneers requesting placement on the List will be advised to contact the Central or Regional Offices of the GSA to secure application forms.

§ 1002.2202-3 Inactivation or debarment of auctioneers on the list.

(a) Inactivation of auctioneers on the List will be accomplished by GSA. Recommendations for the inactivation of auctioneers from the List will be forwarded to AMC (MCPI) and will be based on the following criteria whenever:

(1) His local license is revoked for cause and not reinstated.

(2) He fails to maintain adequate financial responsibility.

(3) He fails to conduct his services according to recognized ethical standards.

(4) He performs services in a sub-standard or ineffective manner.

(5) He acts in a manner seriously prejudicial to the best interests of the Government.

(b) Hq AMC (MCPI) will forward recommendations for inactivation of auctioneers to the GSA through Hq USAF (AFMPP-PR). They will be sufficiently detailed to provide GSA with a sound basis for evaluation.

(c) All correspondence relating to the inactivation of auctioneers, except voluntary inactivation, will be identified "For Official Use Only" with a reference to AFR 11-30 in the identification unless the information therein warrants a security classification, in which case the correspondence should direct attention to the provisions of §§ 805.1 to 805.17 of this chapter and/or AFR 120-3.

(d) Placement of an auctioneer on the list of "Debarred, Ineligible and Suspended Contractors" will be accomplished according to § 1001.604 of this chapter. Inclusion of an auctioneer on the list of "Debarred, Ineligible and Suspended Contractors" will provide for automatic removal of an auctioneer from the List of Auctioneers Qualified to Sell Government-Owned Personal Property.

§ 1002.2203 Procurement of auctioneering services.

§ 1002.2203-1 Formal advertising for auctioneering services.

All auctioneering services will be procured through formal advertising. Invitation for Bids will be forwarded to auctioneers on the list who have qualified according to the coding to: (a) Conduct the type of sale contemplated, (b) sell property in the category or categories of the property involved, and (c) to sell property in the geographical location in which the sale is to be con-

ducted. The award of contracts for auctioneering services will be made only to auctioneers who are on the List or who qualify for such List prior to the time of bid opening.

§ 1002.2203-2 Bids received from auctioneers not on the list.

When a bid is received from an auctioneer whose name is not on the List, the activity will communicate directly by message with the Utilization and Sales Division, Federal Supply Service, GSA, Washington 25, D.C., to determine the qualification status of such bidder. Such messages will contain: (a) The bidder's name and address, (b) the identification of the sale and categories of property to be sold, (c) the time of bid opening, and (d) the expected time of award. If GSA advises that the auctioneer was not qualified prior to the time of bid opening, the bid will be rejected.

§ 1002.2203-3 Auctioneers compensation.

If the contractor's compensation under the IFB is to be based on a commission fee of the expected gross sales proceeds, all bidders will submit a single, flat percentage figure based on such gross proceeds.

§ 1002.2203-4 Special provision.

The following provision will be included in every IFB for auctioneering services:

NOTICE TO BIDDERS

The award of a contract under this Invitation for Bids will be made only to an auctioneer who is on the current official "List of Auctioneers Qualified to Sell Government-Owned Personal Property," at the time of bid opening.

NOTE: Application forms to qualify for such List may be obtained from the Central or Regional Offices of the General Services Administration.

PART 1003—PROCUREMENT BY NEGOTIATION

Subpart A—Use of Negotiation

1. In § 1003.101-53, paragraph (f), subparagraphs (1) and (2) are revised and (7) is added; paragraph (g) is revised, as follows:

§ 1003.101-53 Steps in negotiation.

* * * * *

(f) *Request for proposals.* Request for Proposals (RFP's) will:

(1) Contain the special provision set forth in § 9.110(a)(2)(i) of this title on "Royalty Information" (See §§ 9.110 and 9.111 of this title and §§ 1009.110 and 1009.111 of this chapter) whenever it is expected that proposed contract will exceed \$10,000.

(2) Except as exempted by § 1053-101-1 of this chapter, the requirements of § 1053.101-5 of this chapter will be provided for in the RFP.

* * * * *

(7) Conform to the policy outlined in § 1001.305-3 of this chapter.

(g) *DD Form 746s, Amendment to request for proposals.* All amendments to DD Form 746, "Request for Proposals and Proposal," will be on DD Form 746s

as prescribed by § 16.203 of this title and § 1016.203 of this chapter.

Subpart B—Circumstances Permitting Negotiation

1. Section 1003.210-3 is deleted and the following substituted therefor:

§ 1003.210-3 Limitation.

It is essential that first consideration be given to the practicability of effecting procurement by formal advertising. If such consideration leads to the definite conclusion that procurement by formal advertising is impracticable and none of the other authorities set forth in §§ 3.201 through 3.217 of this title, except § 3.212, are applicable as a basis for negotiation, the contracting officer will prepare and sign determinations and findings. If the price, rate, or charge is fixed by law or regulation, this will be stated in the determinations and findings. Each such determinations and findings will set forth the particular reasons why competition by formal advertising is impracticable, and will be approved as provided in § 1003.306(b). (See § 1003.210-2 for examples of circumstances in which this authority may be used.)

Subpart D—Types of Contracts

1. In § 1003.405-5, subparagraph (4) is added to paragraph (b), as follows:

§ 1003.405-5 Indefinite delivery type contracts.

* * * * *

(b) Requirements contract. * * *

(4) Requirements in excess of Air Force internal capabilities. In certain instances an AF activity may have the capability of itself performing a part of its entire estimated requirements in a given period for work of a type which, if contracted for, could be placed by a non-personal services contract. In such instances, a requirements contract may be used to purchase the requirements estimated to be in excess of the activity's capabilities to perform: *Provided*, All the following criteria are met:

(i) The requirements are for nonpersonal services (and supplies incidental to such services) and are otherwise authorized for procurement by a requirements contract pursuant to § 3.405-5(b) of this title.

(ii) There is a recurrent need for the services by the activity concerned.

(iii) No sharp increase or decrease in the activity's internal capabilities to perform the services is anticipated during the contract term.

(iv) Capabilities of AF activities other than that whose requirements are involved are not to be used to perform the services contracted for.

(v) It is determined that no other type of contract is as suitable for obtaining such services, on a timely basis, or without excessive administrative costs.

When, pursuant to the foregoing, this type of contract is used, the clause set forth in § 1007.4028(a) of this chapter, amended as provided in § 1007.4028(b) of this chapter, will be inserted in the contract.

2. Section 1003.405-51 is added as follows:

§ 1003.405-51 Call procurement arrangements.

(a) *Description.* A call procurement arrangement is an agreement containing a specific description of the supplies or services to be furnished but not containing specific quantities or delivery schedules. The arrangement, along with other terms, contains fixed prices and specifies the period during which calls may be made. The Government is under no obligation to call for any supplies or services during such period. Quantities and delivery schedules are established by each call.

(b) *Applicability.* A call procurement arrangement may be appropriate where quantity and delivery requirements are not presently known, but where recurring requirements are expected to arise in circumstances where—by the time such requirements become definitely known—time would not permit solicitation of bids or proposals, and fixed prices can be established at the outset for the supplies or services to be procured. Thus, a call procurement arrangement may be applicable where standby procurement coverage is required and circumstances will not permit firm contractual commitments by either the Government or the contractor, for example: in the procurement of the printing of technical data or oxygen.

(c) *Limitations.* (1) Call procurement arrangements will be written for a period not exceeding 12 months, but not necessarily on a fiscal year basis.

(2) Call procurement arrangements will not be used where the requisites for Indefinite Quantity Contracts (§ 1003.405-5(c)) or Requirements Contracts (§ 1003.405-5(b)) can be met. The maximum efforts should be exerted to come up with minimum and maximum requirements. A call procurement arrangement should be used only when no other method of procurement can be used. The procurement file will contain a statement giving the reasons why the use of an Indefinite Quantity or Requirements Contract cannot be used and why a call arrangement is necessary.

(3) Any call using 1 year funds will be supported by fiscal year funds in effect at the date of the call.

(d) *Contract clause.* The appropriate clause for incorporating the call feature in a contract is set forth in § 1007.4040 of this chapter.

3. Section 1003.406 is added as follows:

§ 1003.406 Additional incentives.

§ 1003.406-1 General.

See § 3.406-1 of this title.

§ 1003.406-2 Performance-incentive contracts.

(a) (c) (2) See § 3.406-2 (a) (c) (2) of this title.

(c) (3) Requests for approval will be submitted to Pricing and Financial Division (MCPF), Hq AMC. Request will describe the procurement, explain objectives and include proposed clause.

§ 1003.406-3 Contracts with value engineering incentives.

(a) (b) See § 3.406-3 (a) (b) of this title.

(c) *Limitations.* See § 1003.406-2(c) (3).

Subpart F—Small Purchases

1. Section 1003.606-1 is deleted and the following substituted therefor:

§ 1003.606-1 General.

The Blanket Purchase Agreement method will be used to the greatest extent practicable. All potential sources in the local trade area of the AF base will be given an equal opportunity to furnish supplies and/or services to the Government under the terms and conditions of the blanket purchase agreement (BPA) method. To accomplish the above and comply with § 3.606-1 of this title for equitable distribution of requests among different suppliers, the following procedure may be used where more than three sources are available for like items:

(a) Generally, not less than three nor more than four BPAs will be placed concurrently for like items.

(b) Requests exceeding \$100 are placed after negotiation with each BPA holder.

(c) At the expiration of the period covered by these BPAs, a tabulation is made of all competitive requests placed against the BPA.

(d) The BPA sources receiving the largest monetary value of competitive requests are issued BPAs for the subsequent period; the other source(s) are rotated with other potential sources in the local trade area.

(e) The firms dropped from the BPA lists, because of low monetary volume of competitive requests during the preceding period, are notified of the reasons for this discontinuance and advised that further opportunity to compete for the Government's requirements on BPAs will be given when other non-BPA potential sources have been given an equal opportunity to compete.

2. In § 1003.606-2, paragraph (c) is revised as follows:

§ 1003.606-2 Establishment of blanket purchase agreement.

* * * * *

(c) To facilitate placement of requests against blanket purchase agreements when vendors are located outside the local trade area of the AF base, the contracting officer may negotiate a prior understanding of pricing basis for non-competitive orders (under \$100). Usually this will be a matter of discount from some recognized list price which will allow for the pricing and placement of the request without prior contact with the vendor by telephone, telegram, or correspondence. Such pricing arrangement should be prepared as a memorandum for record and maintained in the BPA file. This memorandum need not be redrawn at the beginning of each BPA period, but should at all times represent the current understanding.

3. Section 1003.606-3 is deleted and the following substituted therefor:

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§ 1003.606-3 Conditions for use.

The maximum period of time covered by a BPA will not exceed 3 months or extend beyond the end of the fiscal quarter in which issued. The maximum aggregate amount of requests to be issued against one BPA will not exceed \$15,000. When consolidated receiving reports are used, no requests will be placed against BPAs unless delivery can be accomplished within the effective period of the agreement.

Subpart H—Price Negotiation Policies and Techniques

1. Section 1003.804 is revised as follows:

§ 1003.804 Conduct of negotiations.

Procurement personnel must make thorough analysis of contractors' proposals and must have: (a) Current, complete, correct, and significant cost and pricing data and (b) types of subcontracts used or proposed before making decisions on contract prices. In addition to data furnished by contractor, each member of negotiating team (normally composed of PCO, ACO, price analysts, quality control and production specialists, industrial engineer, and auditor) will contribute available specialized information needed to evaluate every aspect of proposal. The ACO must make specific comment as to effectiveness of contractor's procurement practices. The foregoing shall be done in addition to requirement for certification prescribed by § 1003.811(b).

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.)

PART 1005—INTERDEPARTMENTAL PROCUREMENT**Subpart A—Procurement Under Federal Supply Schedule Contracts**

1. Section 1005.106 is revised as follows:

§ 1005.106 Federal supply schedules with multiple award provisions.

In ordering from multiple award Federal Supply Schedules, as set forth in § 5.106 of this title, the choice of equipment will be governed by price except when the using activity furnishes a written justification, considered adequate by the contracting officer, for ordering a particular make or brand. If adequate, the contracting officer will use the justification as the basis for ordering a particular make or brand at other than the lowest price for the type of equipment involved. No formal determination or finding need be filed with either the General Services Administration or the General Accounting Office. If the contracting officer considers the justification inadequate, he will request additional justification from the using activity. In the event he considers the additional justification inadequate, the choice of equipment will be governed by price. Where the price of comparable items of two or more contractors are identical, orders will be rotated, to the extent practicable, in order to avoid a sole source situation.

2. Section 1005.151 is added as follows:

§ 1005.151 Purchase of typewriters.**§ 1005.151-1 Manually operated typewriters.**

Before manually operated typewriters may be purchased, a Certificate of Unavailability must be secured through supply channels from the appropriate regional office of GSA. A purchase request for these typewriters must be accompanied by a Certificate of Unavailability. The following notification will be placed on each purchase order for manually operated typewriters submitted to a contractor: "This order is covered by General Services Administration Certificate of Unavailability No. _____."

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1007—CONTRACT CLAUSES**Subpart U—Clauses for Fixed-Price Nonpersonal Service Contracts**

1. In § 1007.2103-16, paragraph (d) of the clause is revised as follows:

§ 1007.2103-16 Termination for convenience of the Government.

* * * * *

(d) Subject to the provisions of paragraph (c) and subject to any Settlement Review Board approvals required by Section VIII of the Armed Services Procurement Regulation in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

Subpart EE—Clauses for Construction Contracts

1. Section 1007.3105-3 is added as follows:

§ 1007.3105-3 Estimated requirements.

The clause set forth in § 1007.4028(b) may be inserted subject to the limitations set forth in § 1003.405-5(b) of this chapter.

NOTE: When this clause is used, paragraph (b) and (c) of the clause set forth in § 1007.3106-1 shall be omitted.

Subpart NN—Special Clauses

1. Section 1007.4013 is revised as follows:

§ 1007.4013 Quality control specification.

All contracts (other than base procurement contracts and those excluded by paragraph 1.2 of Military Specification MIL-Q-9858, as in effect on the date of the contract) will contain the following clause:

QUALITY CONTROL SPECIFICATION

Except as otherwise provided in this contract, the Contractor's system of quality control during the performance of this contract shall be in accordance with the provisions of Military Specification MIL-Q-9858, as in effect on the date of this contract, incorporated herein by reference, unless this contract is one of the types specified in paragraph 1.2 of said specification.

NOTE: The following change may be made to the clause at the option of the Contracting Officer, that: the issue in effect at the date of the contract may be more specifically identified in the schedule of the contract (Ref: par. 4.2 of MIL-Q-9858).

2. Section 1007.4028 is deleted and the following substituted therefor:

§ 1007.4028 Estimated requirements.

(a) The following clause will be inserted in all contracts for the procurement of laundry or dry cleaning services (Subpart GG of this part). The clause will also be used in requirement contracts for the procurement of (1) bakery or dairy products or packing and crating services (see Subparts FF, HH, and II of this part) or (2) other frequently procured standard commercial supplies or services where requirements are indefinite in quantity and frequency.

ESTIMATED REQUIREMENTS

(a) The quantities of supplies and services which the Government estimates that the Government activity named in the Schedule will require during the period covered by this contract are set forth in the Schedule. These quantities are estimated only and are not purchased hereby.

(b) The Government agrees to call on the Contractor for all the requirements for such supplies and services of the Government activity named in the schedule. The Contractor agrees to furnish such supplies and services when called for by the Government.

(c) In the event that the requirements of the Government activity named in the Schedule for the supplies and services described herein do not materialize in the quantities specified as either "estimated" or "maximum" in the schedule, such failure shall not constitute grounds for equitable adjustment under this contract, except as may be specifically provided in the schedule.

NOTE: (1) If desired, any one or all of the following points may be covered by adding an additional paragraph or paragraphs to the above clause:

(a) Where feasible, the maximum limit of the contractor's obligation to deliver and, in such event, also appropriate provision limiting the Government's obligation to order.

(b) Limitations, in terms of percentage, the quantities which may be called for during any specified period.

(c) Limitation on the frequency of calls.

(2) Whenever, Dairy and Bakery product requirements for both troop issue and resale have been included in the same schedule and it is contemplated that similar products will be procured on a "brand name" basis, the following clause will be included in the schedule:

The requirements contained in this contract are for specification type items, and notwithstanding anything to the contrary

in the General Provisions, this contract is not to be construed to prevent the Government from procuring similar products of brand name for resale purposes from other sources.

(b) When, according to § 1003.405-5 (b) (4) of this chapter, it is desired to use a requirements contract for nonpersonal services and supplies incidental thereto, covering requirements estimated to be over and above a specific AF activity's internal capabilities of performing itself, the following shall be substituted for paragraphs (a) and (b) of the clause in paragraph (a) of this section.

(a) The quantities of supplies and services which the Government estimates that the Government activity named in the Schedule will require during the period covered by this contract are set forth in the Schedule. These quantities are not the total requirements of the activity named in the Schedule; they are estimates of requirements over and above the quantities which such activity may itself furnish within its own capabilities. Inasmuch as these are estimates only, they are not purchased hereby.

(b) The Government agrees to call on the Contractor for all the requirements for such supplies and services of the Government activity named in the Schedule over and above the quantities which such activity may itself furnish within its own capabilities. The Contractor agrees to furnish such supplies and services when called for by the Government.

3. Section 1007.4040 is added as follows:

§ 1007.4040 Call procurement arrangement.

Any call procurement arrangement, issued according to § 1003.405-51 of this chapter will contain the following clause in addition to the clauses required or authorized for a contract of the type desired for the procurement arrangement.

CALLS

(a) Upon receipt by it of any Call issued hereunder by the Contracting Officer, the Contractor, pursuant to such call, shall furnish to the Government supplies or services of the type and at the prices set forth in the Schedule. Calls may be issued at the sole option of the Contracting Officer during the period set forth in the Schedule. It is understood and agreed that the Government undertakes no obligation hereby to issue Calls hereunder. The provisions of this arrangement, including the Schedule, shall govern all Calls issued hereunder during the aforementioned period.

(b) Calls for supplies or services shall be issued by the Contracting Officer in writing, dated, and serially numbered. They shall set forth (i) the supplies or services being ordered, (ii) the quantities to be furnished, (iii) delivery or performance dates, (iv) place of delivery or performance, and (v) packing and shipping instructions, if any. Amendments to Calls may be issued in the same manner as original calls. Each Call or amended Call shall contain a citation of funds from which payment for the supplies or services ordered shall be made.

4. In section 1007.4042, the following is added, directly after the clause, as follows:

§ 1007.4042 Subcontracts.

* * * * * *Applicability.* Pending further revision of ASPR and AFPI, the clause pre-

scribed by this section will continue to be used with the price redetermination clauses prescribed by §§ 7.108 and 7.109 of this title. Since the ASPR clauses also contain a paragraph pertaining to subcontracts, a statement will be inserted in the contract reading as follows:

The provisions of the clause(s) of this contract entitled "Subcontracts" shall be applicable to this contract in addition to the provisions pertaining to subcontracts appearing in the price revision clause. In the event of conflict between the clauses, the clause(s) entitled "Subcontracts" shall govern.

5. In § 1007.4047, the opening paragraph is revised as follows:

§ 1007.4047 Safety and accident prevention.

Any contract which is to be performed in whole or in part on an AF base or other AF installation under the direct control of the Government will contain the following clause.

6. In § 1007.4048, the clause is revised as follows:

§ 1007.4048 Ammunition and explosive material safety.

* * * * * **AMMUNITION AND EXPLOSIVE MATERIAL SAFETY**

The Contractor shall comply with the applicable portions of Air Force Technical Orders 11C-1-6, 11A-1-40, 11A-1-40C, 42B-1-6 and AF Regulation 86-6, in effect on the date of this contract, in addition to local, State and Federal ordinances, laws and codes in the manufacture, handling, storage, packaging, transportation or use which may affect the performance of this contract of Government or Contractor owned ammunition or explosive material. The Contractor shall also comply with any additional safety measures required by the Contracting Officer with regard to such ammunition or explosive material; provided, that if compliance with such additional safety measures results in a material increase in the cost or time of performance of the contract, an equitable adjustment will be made in accordance with the clause hereof entitled "Changes."

7. In § 1007.4051, a new paragraph (c) is added as follows:

§ 1007.4051 Special provisions relating to Air Force equipment upon which work is to be performed.

* * * * * (c) If a procurement is formally advertised and involves the repair or modification of items such as aircraft, engines or other costly equipment, then for the purposes of the clause set forth in paragraph (a) of this section, the paragraph (f) of § 13.502 of this title applicable to advertised procurements may be deleted and the paragraph (f) applicable to negotiated contracts substituted therefor. This substitution shall be made only when the contracting officer makes a determination, in writing, that lower bids are likely to be received as a result of such action.

Subpart 55—Clauses for Fixed-Price Type Maintenance, Overhaul and Modification Contracts

1. Section 1007.4503-15 is deleted and the following substituted therefor:

§ 1007.4503-15 Termination for convenience of the Government.

Insert the clause set forth in § 1007-2103-16. If the contract provides for separate reimbursement of parts or materials the following paragraph (d) will be substituted for paragraph (d) of § 1007.2103-16:

(d) Subject to the provisions of paragraph (c), and subject to any Settlement Review Board approvals required by Section VIII of the Armed Services Procurement Regulation in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done, provided the contract terms do not otherwise prohibit the allowance of profit on any items thereunder, and provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

Subpart TT—Clauses for Cost-Reimbursement Type Maintenance, Overhaul and Modification Contracts

1. Section 1007.4603-8 is revised to read as follows:

§ 1007.4603-8 Subcontracts.

Insert the clause set forth in § 7.203-8 of this title, as amended by § 1007.203-8.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

Part 1009 is deleted and a new Part 1009 is set forth as follows:

PART 1009—PATENTS, DATA, AND COPYRIGHTS

| Sec. | Scope of part. |
|--------------------------|---|
| 1009.000 | Definition. |
| Subpart A—Patents | |
| 1009.102 | Authorization and consent. |
| 1009.102-1 | Authorization and consent in contracts for supplies. |
| 1009.102-2 | Authorization and consent in contracts for research or development. |
| 1009.103 | Patent indemnification of Government by contractor. |
| 1009.103-3 | Patent indemnification in negotiated contracts. |
| 1009.103-4 | Waiver of indemnity by the Government. |
| 1009.103-50 | Indemnification of contractor by the Government. |
| 1009.104 | Notice and assistance. |
| 1009.105 | Processing of infringement claims. |
| 1009.106 | Classified contracts. |

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Sec.
 1009.107 Patent rights.
 1009.107-2 License rights; domestic contracts.
 1009.107-3 License rights; foreign contracts.
 1009.107-4 Contracts relating to atomic energy.
 1009.107-6 Patent license rights under product improvement programs or independent research programs.
 1009.107-7 Contracts placed for NASA.
 1009.107-50 Costs of patents, purchased designs, license fees and royalty payments.
 1009.108 Patent rights under contracts for personal services.
 1009.109 Followup of patent rights.
 1009.110 Reporting of royalties.
 1009.111 Adjustment of royalties.

Subpart B—Data and Copyrights

1009.202 Acquisition and use of data.
 1009.202-1 Acquisition of data.
 1009.202-3 Multiple sources of supplies.
 1009.202-6 Data furnished on a restricted basis in support of proposal.
 1009.202-50 Costs of patents, purchased designs, license fees and royalty payments.
 1009.203 Contract clauses; general.
 1009.203-1 Basic data clause.
 1009.203-2 Provision for addition to basic data clause for use in supply contracts.
 1009.203-3 Limited rights provision for addition to basic data clause.
 1009.203-4 Provision for addition to basic data clause for use in contracts for experimental, developmental, or research work.
 1009.204 Contract clauses; special.
 1009.204-2 Production of motion pictures.
 1009.205 Contracts for acquisition of existing works.
 1009.205-1 Off-the-shelf purchase of books and similar items.
 1009.205-2 Contracts for existing motion pictures.
 1009.250 Copyright problems.
 1009.251 Copyright infringement claims.

Subparts C-1—[Reserved]**Subpart J—Processing of Purchase Requests and Military Interdepartmental Purchase Requests for Review**

1009.1000 Scope of subpart.
 1009.1001 Responsibilities of initiator.
 1009.1002 Activity of the staff judge advocate and exceptions to recommendations.

Subpart K—Processing and Clearance of Invention, Subcontract and Royalty Reports

1009.1100 Scope of subpart.
 1009.1101 Applicability of subpart.
 1009.1102 Application.
 1009.1103 Definitions.
 1109.1104 Clearance procedures.
 1009.1105 Responsibility of contractor.
 1009.1106 Responsibility of office administering the contract.
 1009.1107 Responsibility of AMC local staff judge advocates or ARDC center staff judge advocates.
 1009.1108 Responsibility of accounting and finance office.
 1009.1109 Responsibility of Hq AMC and Hq ARDC.
 1009.1110 Discount provisions; expedition.

AUTHORITY: §§ 1009.000 to 1009.1110 issued under sec. 8012, 70A Stat. 498; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

§ 1009.000 Scope of part.

See § 9.000 of this title.

§ 1009.050 Definition.

Chief, Patents Division. The term "Chief, Patents Division" means the Chief, Patents Division, Office of the Judge Advocate General, USAF, Hq USAF.

Subpart A—Patents**§ 1009.102 Authorization and consent.**

(a) No request of a contractor, in a negotiated contract, for a provision whereby the Government expressly agrees to indemnify the contractor against liability for patent infringement should be granted. However, instead of such Government indemnification of the contractor, the request can be partially satisfied by omitting any Patent Indemnity Clause (see § 9.103-3 of this title) and inserting the appropriate Authorization and Consent clause (see §§ 9.102-1 and 9.102-2 of this title). This procedure should not be used as a matter of course, but only in instances where, all factors of the procurement having been considered, the contracting officer concludes that the request of the contractor is appropriate.

(b) Since 28 U.S.C. 1498 (See § 9.102 (a) of this title) has no effect with respect to infringement of foreign patents, the procedure in paragraph (a) of this section is not appropriate in relation to the use or manufacture of inventions to the extent they are covered by foreign patents.

§ 1009.102-1 Authorization and consent in contracts for supplies.

In contracts calling for both supplies and experimental, developmental, or research work, the use of the contract clause in § 9.102-1 of this title is preferred to the clause in § 9.102-2 of this title.

§ 1009.102-2 Authorization and consent in contracts for research or development.

See § 1009.102-1, with reference to contracts calling for both supplies and research and development.

§ 1009.103 Patent indemnification of Government by contractor.

See § 9.103 of this title.

§ 1009.103-3 Patent indemnification in negotiated contracts.

The clause in § 9.103-2 of this title is not approved for use in negotiated contracts for construction work or supplies.

§ 1009.103-4 Waiver of indemnity by the Government.

When it is determined to be in the interest of the Government, specific patents may be excluded from the indemnity with the approval of the Deputy Chief of Staff, Materiel, Hq USAF.

§ 1009.103-50 Indemnification of contractor by the Government.

See § 1009.102 (a) and (b).

§ 1009.104 Notice and assistance.

For proper action to be taken by the contracting officer with respect to re-

ports of notices or claims of patent infringement received by him under the provisions of § 9.104 of this title, see § 1009.105.

§ 1009.105 Processing of infringement claims.

This section sets forth the procedure for referring the following: All proposed contracts where the primary item of procurement is a license under or an assignment of an invention or a patent; all reports of notices or claims of patent infringement received by contracting officers from contractors under the provisions of § 9.104 of this title; and all communications received in any AF activity in which a claim is made that the manufacture, use, or disposition of any article, material, or process by or for that activity or by or for any other AF activity, involves the unauthorized use of any invention or design, whether patented or unpatented, and that compensation on account of such use is payable.

(a) All such proposed contracts, reports, or communications arising within the Air Materiel Command (AMC) and Wright Air Development Center (WADC) will be forwarded to AMC (MCJP), who will acknowledge receipt thereof and forward together with the statement of all pertinent facts to the Chief, Patents Division. A copy of the above material and the statement of facts will be sent by MCJP to ARDC (RDJP) with respect to matters arising within WADC.

(b) All such proposed contracts, reports or communications arising within ARDC except WADC will be forwarded to ARDC (RDJP), Hq ARDC, who will acknowledge receipt thereof and forward together with a statement of pertinent facts to the Chief, Patents Division.

(c) All such proposed contracts, reports, or communications arising in AF activities, other than AMC and ARDC, will be forwarded, along with a statement of all pertinent facts, directly to the Chief, Patents Division.

(d) No further action other than that in paragraphs (a), (b), and (c) of this section will be taken until instructions are received from the Chief, Patents Division.

§ 1009.106 Classified contracts.

(a) Copies of applications for United States patents submitted to the contracting officer pursuant to the provisions of § 9.106 of this title will be referred in the same manner as prescribed for the submission of material in § 1009.105. When applicable, upon receipt of the copies of the application, the cognizant patent personnel or staff judge advocate will forward them to the Chief, Patents Division, together with a recommendation in each case as to whether the application should, under the provisions of 35 U.S.C. 131-188, be placed under a Secrecy Order, or be maintained in a sealed condition.

(b) Applications should be forwarded as required in paragraph (a) of this section, as promptly as possible since, pursuant to paragraph (a) of the clause entitled "Filing of Patent Applications" (§ 9.106 of this title), if the contractor has received no instructions from the

contracting officer within 30 days from the date of mailing or other transmittal of the proposed application, the contractor may file the application.

§ 1009.106-1 Classified contracts to be performed outside the United States.

When, pursuant to the provisions of § 9.106-1 of this title, the contractor requests written approval of the contracting officer for filing an application or registration for a patent, the contracting officer will obtain from the contractor a copy of the proposed application or registration for a patent and will refer the contractor's request for approval and the application or registration copy directly to the Chief, Patents Division.

§ 1009.107 Patent rights.

§ 1009.107-2 License rights; domestic contracts.

(a) *Exclusion of inventions from the license grant.* Pursuant to the provisions of § 9.107-2(a) of this title, the contracting officer will obtain identification of the patent number or patent application serial number of each invention for which exclusion is sought by the contractor and obtain verification of the existence of one or more of the circumstances in § 9.107-2(a) (1) through (4) of this title. Where the invention is identified only by a patent application serial number, a copy of such application and information as to the filing date will be obtained from the contractor. For the purpose of obtaining advice and recommendations, the contracting officer will then forward the contractor's request for exclusion, together with copies of all pertinent material and a full statement of facts, within:

(1) AMC and WADC to AMC (MCJP), Hq AMC.

(2) ARDC, other than WADC, to ARDC (RDJP), Hq ARDC.

(3) AF activities other than AMC and ARDC, to the Chief, Patents Division, Hq USAF.

With respect to the provisions of § 9.107-2(a)(1) of this title, in comparing the contractor's expenditures with the amount of the proposed contract or such portion of the proposed contract amount as can be allocated in advance for the development of such an invention, prior Government expenditures on the development of such invention and the Government contribution to the general research work of the contractor related to the subject matter of the contract shall be taken into consideration. Upon granting a request for exclusion of inventions pursuant to § 9.107-2(a) of this title and this paragraph, a report thereof along with a statement of all pertinent facts will be forwarded to the Chief, Patents Division.

(b) *Contract clause.* The following paragraphs relate to material required to be furnished by contractors under the provisions of paragraphs (c), (d), (e), and (h) of the Patent Rights clause of § 9.107-2(b) of this title.

(1) All such material will be processed according to the procedure in Subpart K of this part. BOB approval No. 22-R160 authorizes submission of DD Form

882, "Reports of Inventions and Subcontracts," by contractors.

(2) In complying with paragraphs (c) and (d) of the Patent Rights clause, if the contractor has had a patentability search made or has otherwise determined that an invention reasonably appears to be patentable, but the contractor decides not to file a patent application thereon, and if the costs of such search or determination are allowed as an item of cost under a Government contract, or such search report or determination will be furnished without specific charge, the contractor will transmit to the contracting officer a copy of such patentability search report or documents supporting such determination when the contractor notifies the contracting officer that the contractor will not file such application. The report or documents will include a copy of all applicable references.

§ 1009.107-3 License rights; foreign contracts.

Material required by the provisions of the Patent Rights clause (§ 9.107-3 of this title) will be furnished and processed according to subparagraph (b)(1) and (2) of § 1009.107-2.

§ 1009.107-4 Contracts relating to atomic energy.

All contractor furnished information with respect to subject inventions relating to atomic energy, received by contracting officers under the provisions of § 9.107-4 of this title and all requests for deviations which are to be forwarded to the Atomic Energy Commission to determine whether the deviation may be granted will be forwarded in the same manner as prescribed for the submission of material in § 1009.105. The cognizant patent personnel or staff judge advocate will forward it with his recommendations to Chief, Patents Division.

§ 1009.107-6 Patent license rights under product improvement programs or independent research programs.

(a) The word "substantial" appearing in § 9.107-6 of this title indicates more than normal support in the sense of being in excess of the allowable usual portion of general research, related research, or development costs.

(b) When a product improvement proposal has been approved by the appropriate authority, the Specialized Projects Branch (MCPA), Hq AMC, or the Procurement Review Committee (RDSKC), Hq ARDC, as appropriate, will recommend whether any patent rights should be obtained according to § 9.107-6 of this title, and, if the recommendation is affirmative, the Chief, Patents and Royalties Division (MCJP), Hq AMC, or Chief, Patents Division (RDJP), Hq ARDC, as appropriate, will recommend the Patent Rights clauses to be included in procurement contracts under which the product improvement proposal will be carried out. The matter will then be forwarded for approval to the Deputy for Procurement, Hq AMC, or the Director of Procurement, Hq ARDC, as appropriate.

(c) When a specific project within a contractor's independent research pro-

gram has been approved by the contracting officer, the Specialized Projects Branch (MCPA), Hq AMC, or the Procurement Review Committee (RDSKC), Hq ARDC, as appropriate, will recommend whether any patent rights should be obtained according to § 9.107-6 of this title, and, if the recommendation is affirmative, the matter will then be forwarded for approval to the Deputy for Procurement, Hq AMC, or the Director of Procurement, Hq ARDC, as appropriate. When it has been determined to obtain for the Government patent license rights under a specific project within a contractor's independent research program, which specific project is not included in the Statement of Work, subparagraph (C) will be added following subparagraph (a)(1)(B) of the Patent Rights clause of § 9.107-2(b) of this title, as follows:

or (C) in the performance of any research, experimental or developmental work on specific projects within Contractor's independent research program, which projects are approved for financial support by the Contracting Officer, and which performance occurs during the period of time covered by this contract or as a result of such support.

(d) When it is determined to provide substantial financial support to a contractor's specific product improvement program, this will be accomplished by appropriate description of such program in the schedule of the contract. When it is determined to provide substantial financial support to specific projects in a contractor's independent research program, this will be done in the case of: (1) Firm fixed price contracts, in the negotiation of the price thereof; (2) fixed-price contracts providing for price redetermination by appropriate provision in the contract or appropriate reference in the record of contract negotiation that the cost of such projects will be considered for pricing purposes; and (3) cost type contracts by including the following clause:

The cost of specific projects within the Contractor's independent research program will be recognized as an indirect cost under this contract and be reimbursed on an allocable basis to the extent that such projects and the costs thereof have been approved in advance by the Contracting Officer.

(e) In respect to the clauses of paragraphs (c) and (d) of this section, the contracting officer will consult the cognizant staff judge advocate for advice; the cognizant staff judge advocate may forward all questions relating to Patent Rights clauses:

(1) Within AMC and WADC to AMC (MCJP), Hq AMC.

(2) Within ARDC to ARDC (RDJP), Hq ARDC.

§ 1009.107-7 Contracts placed for NASA.

According to the instructions in § 9.107-7 of this title, insert the following clause in contracts for the National Aeronautics and Space Administration:

PROPERTY RIGHTS IN INVENTIONS

(a) As used in this clause:

(i) "Person" means any individual, partnership, corporation, association, institution, or other entity;

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(ii) "Made" or "making," when used in relation to any invention, means the conception or first actual reduction to practice of such invention;

(iii) "Invention" includes any invention, discovery, improvement, or innovation;

(iv) "Subcontract" and "Subcontractor" means any subcontract or subcontractor of the Contractor and any lower-tier subcontract or subcontractor under this contract;

(v) "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(b) This contract is subject to the provisions of Section 305 of the National Aeronautics and Space Act of 1958 (Public Law 85-568) (hereinafter referred to as "the Act") relating to property rights in inventions. The Contractor shall furnish to the Contracting Officer a written report containing full and complete technical information concerning any invention made in the performance of any work under this contract promptly upon the making of such invention. The Contractor shall also furnish to the Contracting Officer, promptly after the execution of this contract, a written report containing full and complete technical information concerning any invention made in the performance of any work relating to the subject matter of this contract which was done upon an understanding in writing that a contract would be awarded.

(c) In addition to the report required by (b) above, the Contractor shall make a final report prior to final settlement of this contract listing all inventions reportable under (b) above, whether or not included in prior reports.

(d) It is hereby agreed by the parties hereto that any invention made in the performance of work under this contract shall be presumed to have been made by a person described in paragraphs (1) or (2) of subsection 305(a) of the Act, and under the conditions therein described, unless the Contractor, at the time of furnishing the report of an invention required by (b) above, does one of the following:

(1) Submits to the Administrator a written statement setting forth details of the circumstances under which such invention was made so as to permit the Administrator to determine (A) whether the person who made the invention was employed or assigned to perform research, development or exploration work and the invention (1) is related to the work he was employed or assigned to perform, or (2) was within the scope of his employment duties; or (B) whether the invention is related to the contract, or to the work or duties which the person who made the invention was employed or assigned to perform, and was made during working hours or with a contribution by the Government or the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(ii) Requests in writing an extension of time, not exceeding 3 months, to prepare and submit the written statement described in (1) above; or

(iii) Notifies the Administrator of its intention to file a United States patent application for such invention within a period of 8 months from the date of furnishing the report of such invention required by (b) above; or

(iv) Requests an advisory opinion concerning waiver of rights of the United States with respect to such invention.

(e) (1) If the Contractor submits the statement described in (d)(1) above, the Administrator will review the information furnished by the Contractor and any other available information relating to the circumstances surrounding the making of the invention in question, and will promptly notify the Contractor of his decision as to whether

the invention was made under the circumstances set forth in paragraphs (1) and (2) of subsection 305(a) of the Act.

(ii) If the Contractor requests an extension of time for submission of such statement as provided in (d)(ii) above, but fails to submit the statement within the time prescribed therein, the presumption stated in (d) above shall take effect.

(iii) If the Contractor notifies the Administrator of its intention to file a patent application as provided in (d)(iii) above, but fails to file the patent application within the 8-month period prescribed therein, the presumption stated in (d) above shall take effect.

(iv) If the Contractor requests an advisory opinion as provided in (d)(iv) above, the Contractor will be notified of action thereon within 3 months of such request. If the Contractor considers that the advisory opinion is unfavorable to its interests and desires to take issue with the presumption stated in (d) above, it shall either submit the written statement described in (d)(1) above within 3 months from the date of mailing the advisory opinion, or promptly notify the Administrator of its intention to file a United States patent application for such invention within the remaining portion of the period prescribed in (d)(iii) above. If the Contractor fails either to submit the statement within 3 months from the date of mailing such advisory opinion, or to file the patent application before expiration of the period prescribed in (d)(iii) above, the presumption stated in (d) above shall take effect.

(v) If the Contractor files a patent application within the period prescribed in (d)(iii) above, it shall file with the Commissioner of Patents, at the time of filing the application in the Patent Office, a written statement of the applicant, executed under oath, conforming to the requirements of (d)(1) above, and shall furnish to the Contracting Officer a copy of said application and of the written statement, identifying the application by serial number and filing date and the written statement by the contract number under which the invention was made. The Administrator will review the information furnished by the Contractor in such written statement and any other available information relating to the circumstances surrounding the making of the invention in question and will promptly notify the Contractor of his decision as to whether the invention was made under the circumstances set forth in paragraphs (1) and (2) of subsection 305(a) of the Act.

(f) With respect to any invention hereunder which becomes the exclusive property of the United States, the Contractor, upon written request, shall

(1) Furnish to the Contracting Officer such additional technical details available to the Contractor and covering the invention as are necessary for the preparation of a patent application, and convey or secure the conveyance of the Contractor's entire right, title, and interest in such inventions to the Government by delivering to the Contracting Officer such duly executed instruments of assignment and application and such other papers as are deemed necessary to vest in the Government the Contractor's right, title, and interest aforesaid, and the right to apply for and prosecute patent applications covering such invention throughout the world; or

(ii) In the event of waiver under subsection 305(f) of the Act, take suitable and necessary steps (as set forth in (g)(ii) below or otherwise provided in the instrument of waiver) to protect the Government's interest in any such inventions of the Contractor or its employees and to grant to the Government the license right required by subsection 305(f) of the Act.

(g) (1) With respect to inventions as to which rights have not been vested in the Government pursuant to the provisions of Section 305 of the Act, and which were conceived or first actually reduced to practice (A) in the performance of the experimental, developmental, or research work called for or required under this contract, or (B) in the performance of any experimental, developmental, or research work relating to the subject matter of this contract which was done upon an understanding in writing that a contract would be awarded, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, nontransferrable, and royalty-free license to practice and cause to be practiced, by or for the United States Government, throughout the world, each such invention in the manufacture, use, and disposition according to law of any article or material, or in the use of any method. No license granted under this paragraph (g) shall convey any right to the Government to manufacture, have manufactured, or use any such invention for the purpose of providing services or supplies to the general public in competition with the Contractor or the Contractor's commercial licensees in the licensed fields. The obligation of the Contractor contained in (i), (ii)(C), and (ii)(E) of this paragraph (g) shall be limited to the extent of the Contractor's right to make the specified grants or conveyances without incurring any obligation to pay royalties or other compensation to others solely on account of said grant. Any license granted herein does not imply the grant to the Government of license rights under any other invention not subject to the licensing provisions hereof, notwithstanding that the practice of any invention licensed thereunder would necessarily require a license under a dominating patent or patents.

(ii) In connection with any invention covered by (g)(1) above, the Contractor shall do the following:

(A) Specify whether or not a United States patent application claiming the invention has been or will be filed by or on behalf of the Contractor;

(B) If the Contractor specifies that a United States patent application claiming such invention will be filed, the Contractor shall file or cause to be filed such application in due form and time; however, if the Contractor, after having specified that such an application would be filed, decides not to file or cause to be filed said application, the Contractor shall so notify the Contracting Officer at the earliest practicable date and in any event not later than eight months after first publication, public use, or sale;

(C) If the Contractor specifies that a United States patent application claiming such invention has not been filed and will not be filed (or having specified that such an application will be filed thereafter notifies the Contracting Officer to the contrary), the Contractor shall:

(1) Inform the Contracting Officer in writing at the earliest practicable date of any publication of such invention made by or known to the Contractor or, where applicable, of any contemplated publication by the Contractor, stating the date and identity of such publication or contemplated publication; and

(2) Convey to the Government the Contractor's entire right, title, and interest in such invention by delivering to the Contracting Officer upon written request such duly executed instruments (prepared by the Government) of assignment and application and such other papers as are deemed necessary to vest in the Government the Contractor's right, title, and interest aforesaid, and the right to apply for and prosecute patent applications covering such invention throughout the world, subject, however, to the rights of the Contractor in foreign applications as

provided in (III) below, and subject further to the reservation of a non-exclusive and royalty-free license to the Contractor (and to its existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part) which license shall be assignable to the successor of that part of the Contractor's business to which such invention pertains;

(D) The Contractor shall furnish promptly to the Contracting Officer on request an irrevocable power of attorney to inspect and make copies of each United States patent application filed by or on behalf of the Contractor covering any such invention;

(E) In the event the Contractor, or those other than the Government deriving rights from the Contractor, elects not to continue prosecution of any United States patent application specified in (B) above, filed by or on behalf of the Contractor, the Contractor shall so notify the Contracting Officer not less than sixty days before the expiration of the response period and, upon written request, deliver to the Contracting Officer such duly executed instruments (prepared by the Government) as are deemed necessary to vest in the Government the Contractor's entire right, title, and interest in such invention and the application, subject to the reservation as specified in (C) above; and

(F) The Contractor shall deliver to the Contracting Officer duly executed instruments fully confirmatory of any license rights herein agreed to be granted to the Government.

(III) The Contractor, or those other than the Government deriving rights from the Contractor, shall, as between the parties hereto, have the exclusive right to file applications on inventions covered in (g)(i) above in each foreign country within:

(A) Nine months from the date a corresponding United States application is filed;

(B) Six months from the date permission is granted to file foreign applications where such filing had been prohibited for security reasons; or

(C) Such longer period as may be approved by the Contracting Officer.

The Contractor shall, upon written request of the Contracting Officer, convey to the Government the Contractor's entire right, title, and interest in each such invention in each foreign country in which an application has not been filed within the time above specified, subject to the reservation of a non-exclusive and royalty-free license to the Contractor together with the right of the Contractor to grant sublicenses, which license and right shall be assignable to the successor of that part of the Contractor's business to which the invention pertains.

(h)(1) In each subcontract hereunder which, pursuant to specifications or special requirements, has as one of its purposes the performance of technical, scientific, or engineering work of the kind described below, the Contractor shall include, at no increase in the cost or price of the subcontract or of this contract by reason of such inclusion, all the provisions of this Property Rights in Inventions clause except provisions (J) and (K) below:

(A) The conduct of basic or applied research;

(B) The design or development, or the manufacture for the first time, of any machine, article of manufacture, or composition of matter to satisfy NASA's specifications or special requirements;

(C) The development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique; or

(D) The testing or experimenting with any machine, article of manufacture, composition of matter, process, or technique to determine whether the same is suitable or could be made suitable for a NASA objective.

In the event of refusal by a subcontractor to accept such provisions, the Contractor shall notify the Contracting Officer and shall not execute the subcontract in question until provisions have been negotiated with such subcontractor which, as determined by the Contracting Officer in writing, meet the requirements of the Act and are otherwise acceptable.

(I) The Contractor is not required, when contracting with a subcontractor, to obtain on behalf of the Government any rights in the inventions covered in (g)(i) above other than as specifically provided in (g) above. However, the Contractor is not precluded from contracting with a subcontractor, for the Contractor's own benefit, for rights in inventions covered in (g)(i) above, but any cost so incurred shall not be considered as an allowable charge or cost under this contract.

(J) The Contractor shall, at the earliest practicable date, notify the Contracting Officer in writing of any subcontract hereunder which contains the provisions required by (h) above and shall also notify the Contracting Officer when such subcontract is completed. It is understood that the purpose of the notice required by this paragraph is to permit the Government to enforce its rights under the Act. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to any invention, discovery, improvement, or innovation which may be made in the performance of any subcontract work.

(K) When the Contractor shows that it has been delayed in the performance of this contract by reason of the Contractor's inability to obtain, in accordance with the requirements of (h) above, the prescribed or other authorized patent clause from a qualified subcontractor for any item or service required under this contract for which the Contractor itself does not have available facilities or qualified personnel, the Contractor's delivery dates shall be extended for a period of time equal to the duration of such delay. Upon request of the Contractor, the Contracting Officer shall determine to what extent, if any, an additional extension of the delivery dates and increase in contract prices based upon additional costs incurred by such delay are proper under the circumstances; and the contract shall be modified accordingly.

(L) If the Contractor fails to comply with the reporting requirements of (b) and (c) above, there shall be withheld from payment, until the Contractor shall have corrected such failures, either ten percent (10%) of the amount of this contract, as from time to time amended, or five thousand dollars (\$5,000) whichever is less. After payment of eighty-five percent (85%) of the amount of this contract, as from time to time amended, payment shall be withheld until a reserve of either ten percent (10%) of such amount, or five thousand dollars (\$5,000), whichever is less, shall have been set aside, such reserve or balance to be retained until the Contractor shall have furnished to the Contracting Officer a statement that the reporting requirements of (b) and (c) above have been complied with. No amount shall be withheld under this paragraph (L) when the amount specified by this paragraph (L) is being withheld under other provisions of this contract. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract. This paragraph (L) shall not be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provisions of a subcontract.

(M) The provisions of this paragraph (L) shall be applicable if the technical, scientific, or engineering work to be performed hereunder relates to atomic energy.

(I) With respect to any invention as herein defined, made by employees of the contractor and relating to the production or utilization of special nuclear material or atomic energy within the purview of the Atomic Energy Acts of 1946 (42 U.S.C. 1801-1819) and of 1954, as amended (42 U.S.C. 2011-2236), the Contractor agrees:

(A) the Administrator shall, in the exercise of his discretion and judgment, furnish to the United States Atomic Energy Commission (hereinafter in this paragraph (I) referred to as the "Commission") complete information regarding any such invention that the Administrator believes to relate to the production or utilization of special nuclear material or atomic energy;

(B) As to those inventions upon which said information is furnished by the Administrator to the Commission, and to which rights have not been vested in the Government pursuant to the provisions of subsection 305(a) of the Act, the Commission shall have the sole and conclusive power to determine whether and where a patent application shall be filed, and to determine the disposition of title to and rights under any such application or any patent that may issue thereon;

(C) To obtain the execution and delivery through the Contracting Officer to the Commission of documents relating to each such invention and to do all things necessary or proper to carry out any determination of the Commission made under (B) above;

(D) Unless otherwise authorized in writing by the Commission through the Contracting Officer, to obtain patent agreements from all such employees to effectuate the purpose of this program; and

(E) Unless otherwise authorized in writing by the Commission to the Contracting Officer, to insert this paragraph (I) in all subcontracts.

(II) No claim for a pecuniary award or compensation under the provisions of the Atomic Energy Acts of 1946 and of 1954 shall be asserted by the Contractor or its employees with respect to any invention covered by this paragraph (I).

§ 1009.107-50 Costs of patents, purchased designs, license fees and royalty payments.

See § 1015.501(c) of this chapter.

§ 1009.108 Patent rights under contracts for personal services.

(a) Applicable AF policy and procedures for the implementing Executive Order 10096, January 23, 1950, are set forth in Section B, AFR 110-8, which may be consulted for background information.

(b) All disclosures or certifications received by contracting officers pursuant to paragraph (b) of the clause in § 9.108 of this title will be referred in the same manner as prescribed for submitting material in § 1009.105. The office to which such disclosures and certifications are referred will process them according to Section B, AFR 110-8.

§ 1009.109 Followup of patent rights.

The applicable system of followup is set forth in detail in Subpart K of this part.

§ 1009.110 Reporting of royalties.

(a) The following paragraphs provide procedures for processing royalty information received according to § 9.110(a) (1) and (2) (iii) of this title by contracting officers, with respect to proposed contracts or subcontracts.

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(1) Where royalties appear as an item of cost or a charge in a proposal for such a contract or subcontract, either of which is estimated to be in excess of \$10,000, which is submitted for approval, and in which the amount of the royalty exceeds \$250 (see § 1003.101-53(f) (1) of this chapter), three copies of AFPI Form 45, "Request for Royalty Approval," will be completed for each separate royalty appearing as an item of cost or charge and will be sent immediately after receipt of the proposal or the proposed subcontract by contracting officers within:

(i) Hq AMC, AMC Aeronautical Systems Center (ASC), WADC, and AF procuring activities other than AMC or ARDC directly to AMC (MCJP).

(ii) AMC field procurement activities and AMC Ballistic Missiles Center (BMC) to the AMC local staff judge advocate. The staff judge advocate will: (a) review the forms for completeness, (b) retain one copy, and (c) send the remaining two copies to AMC (MCJP).

(iii) ARDC, other than WADC, directly to the Chief, Patents Division (RDJP), Hq ARDC. RDJP will send one copy of the form to MCJP for coordination and recommendation.

(2) In order that the advice referred to in § 9.110(a) (2) (ii) of this title may be given expeditiously, the contracting officer will use his best efforts to obtain, at no cost to the Government, and to submit along with the AFPI Form 45, copies of the applicable patent, patent applications, and accurate information descriptive of the specific items being procured. Such information will be sufficient to enable a comparison to be made between the claims of the applicable patents or patent applications and the items being procured. The copies of the patent and patent applications will be returned upon request to the parties furnishing them.

(3) With respect to proposed contracts or subcontracts estimated to be in excess of \$10,000, in which (i) the contractor is under no obligation to pay royalties, or (ii) the royalty payments are \$250 or less, the buyer or contracting officer will enter on the AFPI Form 45 in the box titled "Total Dollar Amount of Royalties," or have appear on the RFP, either "None" or "Less than \$250," as appropriate. In these instances only, the AFPI Form 45 or similar statement will then be made part of the contract file without being forwarded to the offices designated in subparagraph (1) (i), (ii), and (iii) of this paragraph.

(4) When time does not permit the processing of AFPI Form 45 as prescribed in paragraph (1) of this paragraph, contracting officers—except those at Hq AMC, ASC, and WADC—and AMC local staff judge advocates may send the required information by electrically transmitted message. In those instances all information required by the form must be submitted and reasons for the emergency action explained in the electrically transmitted message.

(b) Upon receipt of AFPI Form 45, the following procedures will be followed:

(1) MCJP will request the contracting officer to obtain a copy of any applicable license agreement where appropriate.

(2) MCJP will: (i) review the information contained in the form, (ii) retain one copy, and (iii) expedite transmission to the contracting officer, AMC local staff judge advocate, or RDJP, as appropriate, of its final recommendation and advice as to the reasonableness and propriety of the royalty charge by placing such recommendation on or attaching it to the remaining copy or copies of the form. In the instances in which RDJP receives such recommendation from MCJP, RDJP will review the recommendation, and, immediately upon its concurrence therewith, will transmit the recommendation to the contracting officer. The AMC local staff judge advocate will transmit the recommendation to the contracting officer immediately upon receipt.

(3) Exceptions to the final recommendation of the staff judge advocate will be made only when approved as follows:

(i) Within AMC, by the Deputy for Procurement, Hq AMC. Requests for exceptions will be in writing. Requests originating within Hq AMC and ASC will be signed by the chief of the buying division concerned. Requests originating within AMC field procurement activities will be signed by the director of procurement and production concerned.

(ii) Within ARDC, other than WADC, by the Director of Procurement, Hq ARDC.

(iii) Within WADC, by the Director of Procurement, Hq WADC.

(iv) Within AF procuring activities other than subdivision (i) through (iii) of this subparagraph, according to the directives of each activity.

(c) Royalty reports received under the provisions of the clause of § 9.110(b) of this title, Reporting of Royalties (Foreign), will be processed according to Subpart K of this part, and action will be taken consistent with § 9.111 of this title and § 1009.111 of this chapter. BOB Approval Number 22-R145 authorizes submission of DD Form 783, "Royalty Report," by contractors.

S 1009.111 Adjustment of royalties.

(a) In taking the action prescribed in §§ 9.110 and 9.111 of this title, and § 1009.110 and this section, personnel having cognizance of patent matters will consider the following principles:

(1) Where the Government has a royalty-free license to a patent which is the basis for a proposed royalty charge, the proposed contractor or subcontractor will be notified that the Government will not recognize or accept such royalty charges.

(2) Where the Government is entitled to a royalty rate which is less than the reported royalty charge, the proposed contractor or subcontractor will be notified that the Government will not recognize or accept any royalty charges in excess of the lower rate.

(3) Where, in the opinion of cognizant patent personnel, the royalty rate is excessive, negotiations will be entered into with the licensor to effect a voluntary reduction of the royalty rate or with the licensee to reduce the amount of the royalty charge to the Government. In determining whether the royalty rate

is excessive, the royalty should be related to the patented device itself rather than the complete unit or system.

(4) Where patents are the basis for the royalty reported, an independent determination will be made as to whether the proposed procurement would infringe the patents reported, in the absence of the license agreement. If such infringement is not found, the proposed contractor or subcontractor will be notified that the Government will not recognize or accept charges for such royalties.

(5) Where patents are the basis for the royalty reported, if the patents which are the basis for the royalty charge have been declared invalid by a court of competent jurisdiction or have expired, the proposed contractor or subcontractor will be notified that the Government will not recognize or accept charges for such royalties.

(6) Where the reported royalties are to be paid to a party closely related to the proposed contractor or subcontractor it will be determined if the charge is a "self royalty". If the charge is in the nature of an improper "self royalty", such royalty charge will not be recognized or accepted.

(b) If, subsequent to the review of royalties prescribed in § 9.110 of this title, and § 1009.110 of this chapter, the contracting officer discovers information which was not available during prior review, and which indicates that royalties paid or to be paid are unreasonable, improper, or are otherwise subject to question, he will promptly report the matter with such information as is available to him to the Staff Judge Advocate according to § 1009.110(a) (1).

Subpart B—Data and Copyrights

§ 1009.202 Acquisition and use of data.

§ 1009.202-1 Acquisition of data.

(a) *General.*—(1) *Determining data requirements.* The various data requiring agencies, e.g., the initiator of a procurement, activities such as maintenance engineering, cataloging and standardization, supply, procurement and production, laboratories and technical directorates, etc., will (as currently provided in existing regulations, manuals and directives) determine: (i) The data which is considered by such requiring agencies to be essential for Government purposes, and (ii) the purpose(s) for which required, e.g., instruction, operation, remanufacture, reprocurement, maintenance, etc.

(2) *PR and MIPR processing requirements.* The AF activity responsible for initiating AMC Form 379, "Purchase Request," DD Form 448, or "Military Inter-departmental Purchase Request" (MIPR), or the appropriate data requiring agency, as outlined in subparagraph (1) of this paragraph, will indicate the data required on or by attachment to the PR or MIPR. Consultation with the procurement activity will be by coordination. When different types of data, e.g., handbooks, manuals, or drawings, are required for different items of equipment, the type(s) required for each item will be shown on the PR or MIPR.

(3) *RFP and IFB data requirements.* (i) Each RFP and IFB will specify in the

Schedule the data, as determined in subparagraph (2) of this paragraph, which will be required as part of the procurement, such data being identified by reference to the appropriate Exhibit, Table, Specification or Drawings and Data Lists, or by a description of such data.

(ii) Upon receipt of the PR or MIPR, or during negotiations prior to execution of the contract, the contracting officer will review the requirement for data, and if necessary to the placement of the procurement, consult with the initiator of the PR or MIPR, or the requiring activity, in respect to the data to be procured. The contracting officer will use his best efforts to obtain the data indicated.

(4) *Data pricing, delivery and payment requirements.* (i) Whenever there is a requirement by the requiring activity for technical or engineering data, the IFB or RFP will require that (a) specific prices be furnished for each item of such data, or (b) if separate prices for such data cannot be stated because of the contractor's accounting system or other reason, the data item(s) be listed separately in the contract schedule and the following statement included:

Data price included in the price of the end item(s) supplied under this contract.

Contract schedules will not contain the statement "No charge for data." IFBs should contain a provision as follows:

DATA PRICING

Bidders are requested to insert opposite the data items the price of such data. If the bidder does not insert price as requested above, or inserts the words "No Charge For Data" or similar language, the data price will be considered to be included in the cost of the appropriate end items.

(ii) Contracts which require delivery of data, regardless of whether a specific price is quoted therefor, and regardless of whether the contract stipulates "No charge for data" or "Data price included in the costs of end item(s)," will not be deemed to be fulfilled until delivery and acceptance of the data.

(iii) Under any contract which requires the delivery of data, the accounting and finance office will be advised by the contracting officer to withhold final payment until DD Form 250, "Materiel Inspection and Receiving Report (Domestic)," is obtained through regular channels indicating that data has been delivered and accepted.

(5) *Product improvement programs or independent research.* Where the Government provides substantial financial support to a contractor's (i) specific product improvement program(s) or (ii) specific projects within its independent research programs all data arising or resulting from such support should be acquired without limitation as to its use.

(b) *Supply contracts and subcontracts thereunder—(1) Clause as to rights in data in supply contracts.* Where the appropriate "Data" clause or clauses of § 9.203 of this title are included in a supply contract, the provision below will be included in the Schedule of the contract. See § 1009.203-2.

RIGHTS IN DATA

The rights obtained by the Government in Subject Data are set forth in the Data

clause incorporated in this contract, and nothing elsewhere in this contract or in any documents incorporated by reference in this contract shall be construed as in any way altering such rights.

(2) *Advertised contracts.* Each IFB for supplies requiring data will include, as data clauses, only the provisions of §§ 9.203-1 and 9.203-2 of this title since, as stated in § 9.202-1(b) of this title, "proprietary data" shall not be requested in advertised contracts. The Limited Rights provision of § 9.203-3 of this title may not be included in such IFB's. If data which is considered essential for Government purposes is "proprietary data", and thus may not be acquired under advertised contracts, such data may be specifically negotiated for in a separate contract.

(3) *Negotiated supply contracts and subcontracts for standard commercial items.* See § 9.202-1(b) of this title. The (i) clause of § 9.203-3 of this title will not be used in such contracts and subcontracts. The clauses of §§ 9.203-1 and 9.203-2 of this title are proper in such contracts if data is specified to be delivered thereunder.

(4) *Negotiated supply contracts and subcontracts thereunder for other than standard commercial items.* (i) See § 9.202-1(b) of this title.

(ii) The following procedures should be followed with respect to the establishment of a clear Government need for "proprietary data" in such contracts or subcontracts:

(a) In some cases it is not possible for a data requiring agency to state in advance of negotiation whether data to meet the requirements of Tables or Specifications is "proprietary data." In such cases, if a clear Government need for such data exists, whether or not it is "proprietary data", the data requiring activity will insert on or attach to the appropriate form, a statement as follows or substantially identical therewith:

_____, the data requiring activity, has carefully determined the use contemplated for the data to be acquired, and specifies that there is a clear Government need for the data indicated hereon or by attachment hereto to satisfy such use, regardless of whether such data (1) is "proprietary data" as defined in ASPR 9-201(b), and (2) whether it must be acquired subject to limitations on its use as provided in ASPR 9-203.3.

The above statement will not be resorted to indiscriminately.

(b) If a clear Government need for certain data is established regardless of whether such data may be "proprietary data," the Schedule of the Request for Proposal should include, in addition to the Data requirements, the following or substantially identical clause:

IDENTIFICATION OF CLAIMED PROPRIETARY DATA

If offeror responding to this RFP asserts that any part or all of the data specified herein or by reference to any Tables or Specifications is "proprietary data," as defined in ASPR 9-201(b), the offeror shall suitably identify such claimed "proprietary data" and present facts in support of such assertion. Any negotiation for the acquisition of such data will be in accordance with ASPR 9-202 and such negotiation and acquisition do not necessarily constitute a

determination by the Government that such data is "proprietary data."

(5) *Proprietary data acquired.* Where a clear Government need for data claimed to be "proprietary data" is established in supply contracts and subcontracts thereunder, in connection with the negotiation for and pricing of such data, the following principles should be followed:

(i) The mere assertion by a prospective contractor that data is "proprietary data" is insufficient to establish that fact. The burden of proof rests on the prospective contractor to show that such data is "proprietary data".

(ii) In arriving at a determination whether specific data supplied or to be supplied under a contract is "proprietary data", or a determination as to the merit of a contractor's claim that such data is "proprietary data", the contracting officer should consult with the local staff judge advocate, who in turn should consult with appropriate scientific and technical personnel and, where necessary, consult either AMC (MCJP) or ARDC (RDJP), as appropriate. The Staff Judge Advocate will, on the basis of all available information and technical advice, make recommendations to the contracting officer as to the validity of the contractor's claim that the data is "proprietary data". The contracting officer will not deviate from the recommendations of the Staff Judge Advocate without approval according to § 1009.110(b)(3).

(iii) Whenever it is determined under § 9.202-2(b)(1) of this title that "proprietary data" will be obtained under a supply contract subject to limitation as to its use, the price to be paid for such data should be limited, as nearly as possible, to the costs attributable to the actual materials, reproduction, printing, packaging, etc., of the data called for and should not include any substantial element of cost attributable to the engineering investment claimed in the information contained in such data since the Government obtains only a limited right to use such material.

(c) *Contracts for experimental, developmental or research work and subcontracts thereunder—(1) Experimental, developmental or research work as a principal purpose.* See § 1009.203-4.

(2) *Proprietary data in research and developmental contracts.* In a contract having as one of its principal purposes experimental, developmental, or research work, as a general rule no separate price for data called for under the contract will be stated. It is considered that the price of the experimental, developmental, or research work itself includes the price which is paid for the data and equipment items called for under the contract. However, when it is determined according to § 9.202-1(c) of this title that the previously developed "proprietary data" described therein will be required to be furnished by the contractor, a requirement for such data should be separately stated in the contract. In connection with the negotiations preceding the execution of the contract, the principles in subparagraph (5) of paragraph (b) of this section, should be applied in evaluating the con-

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tractor's claim that such data is "proprietary data".

(3) *Reports and studies.* In a contract which has as one of its principal purposes experimental, developmental, or research work, and which calls only for reports, studies, etc., and does not call for models of equipment or practical processes, the contractor will be required to furnish to the Government for the price of the work all data resulting directly from performance of the contract, whether or not it would otherwise be "proprietary data". In addition, if any equipment or practical process is developed under such a contract, the contractor will be required to furnish all data necessary to enable reproduction or, where appropriate, manufacture of the equipment or performance of the process which is developed and the Schedule of the contract will set forth the data required, subject to the exceptions in § 9.202-1(c) (1) and (2) of this title.

§ 1009.202-3 Multiple sources of supplies.

(a) When it has been determined according to the principles of § 9.202-3 of this title to obtain "proprietary data" for the purpose of establishing multiple sources of supply, so that a clear Government need for such data is established, the requirement for such "proprietary data" will be specified in the contract schedule, there will be a specific negotiation therefor, and the contractual requirement will be listed as a separate contract item. The clauses of §§ 9.203-1 and 9.203-2 of this title are proper.

(b) See § 1001.351 of this chapter.

(c) Where licensing and technical assistance appear to be required for foreign or domestic procurement under the provisions of § 9.202-3(a) of this title and the Government participation in such licensing and technical assistance arrangements discussed in § 9.202-3(a) of this title is considered necessary to protect the Government's interest, a copy of the proposed licensing and technical assistance agreement will be forwarded to AMC (MCJP), for advice. An additional copy of each of such agreements arising under the cognizance of ARDC, other than WADC, will be transmitted at the same time to ARDC (RDJP), for information purposes.

§ 1009.202-6 Data furnished on a restricted basis in support of proposal.

Where it is desired to acquire the rights to use all or part of the data furnished on a restricted basis with a proposal on the basis of which a contract is to be awarded, the contracting officer should in his evaluation of the data alleged to be "proprietary", and in his negotiations, follow the principles in paragraphs (a)(4) and (b)(5) of § 1009.202-1.

§ 1009.202-50 Costs of patents, purchased designs, license fees and royalty payments.

See § 1015.501(c) of this chapter.

§ 1009.203 Contract clauses; general.

See § 9.203 of this title.

§ 1009.203-1 Basic data clause.

(a) If any officer or employee of the Air Force receives any data, delivered by a contractor as specified by the requirements of a contract, which bears a restrictive marking which appears to be not authorized by the terms of the contract under which the data is specified to be delivered, before modifying, removing, obliterating, or ignoring such apparently unauthorized marking as provided by paragraph (g) of the Basic Data clause in § 9.203-1 of this title, the officer or employee will advise the contracting officer of the pertinent facts, and request his approval of the proposed deletion. The contracting officer will, before making his final decision, obtain advice and recommendation within:

(1) AMC from the appropriate local staff judge advocate.

(2) ARDC, other than WADC, from the ARDC center staff judge advocate or headquarters liaison judge advocate of the center having procurement jurisdiction of the contract involved. If questions cannot be resolved at center level, then from the Chief, Patents Division (RDJP), Hq ARDC.

(3) WADC and ASC, directly from AMC (MCJP).

(4) Commands other than AMC and ARDC, directly from AMC (MCJP).

(b) All communications received by a contracting officer from a contractor which represent: (1) Advice as to invasions of rights of privacy contained in data furnished to the Government or as to portions of data copied from works not composed or produced in the performance of the contract and not licensed to the Government under the Data clause, or (2) notices of claims of copyright infringement pursuant to paragraphs (c) and (d) of the Data clause in § 9.203-1 of this title, will be referred to the offices from whom advice and recommendation are sought in paragraph (a) of this section.

§ 1009.203-2 Provision for addition to basic data clause for use in supply contracts.

(a) *Purpose of additional provisions.* The additional provision (h) in § 9.203-2 of this title is intended to negate statements or requirements appearing in Tables or Specifications included or incorporated in the contract by reference which may call for "proprietary data"; no such data is required unless the Contract Schedule itself specifies that such data is to be furnished and indicates that it is to be furnished notwithstanding that it may be "proprietary data." The special clause as to Rights in Data in Supply Contracts in § 1009.202-1(b)(1) is intended to supplement, and in no way contradicts, paragraph (h) of § 9.203-2 of this title. This special clause is intended simply to negate any implication that statements as to "intended use" in the Tables or Specifications alter the legal rights obtained by the Government under the particular data provision or provisions of § 9.203 of this title included in any contract or contracts.

(b) *Designation of non-proprietary data in schedule of negotiated supply*

contracts. If the Government and the contractor agree that it is desirable to identify in the contract the required data which is not "proprietary data," a contractual provision as follows will be inserted in the Contract Schedule of negotiated supply contracts:

For the purpose of paragraph (h) of clause _____ entitled Data, the Contractor agrees that none of the data required by Items _____ and _____ is "proprietary data", as defined in said paragraph (h).

(c) *Identification of "proprietary data" in schedule of negotiated supply contracts calling for other than standard commercial items.* (1) If a clear Government need for "proprietary data" is established in such contracts, the following or substantially identical language will be included in the Schedule of the contract for the purpose of identifying such data:

For the purpose of paragraph (h) of clause _____ entitled Data, the data called for by Item(s) _____ and _____ and the data listed at the end of this paragraph, if any, is hereby identified as data required to be furnished under this contract notwithstanding that it is or may be "proprietary data". Such identification is not to be deemed a determination by the Government that such data is "proprietary data".

(2) Data listed at the end of the above clause will be identified in the Schedule of the Contract for the purpose of such paragraph (h) (§ 9.203-2 of this title) by any suitable means, such as a specific reference to individual or groups of drawings, to subject matter of identifiable portions of data, to areas of structural features or processes within certain specific perimeters of description, or by any other method or device acceptable to the contractor and the contracting officer. Such data may be identified by references in the Schedule to Tables or Specifications where appropriate.

§ 1009.203-3 Limited rights provision for addition to basic data clause.

(a) If it has been determined according to § 9.202-2(b)(1) of this title that certain of the data specified to be delivered to the Government under a negotiated supply contract other than one for standard commercial items is "proprietary data" and that part or all of such "proprietary data" should be subject to limitation on its use, paragraph (i) in § 9.203-3 of this title will be included in the contract. That "proprietary data" which is to be furnished subject to limitation as to its use will be identified in the Schedule of the contract by use of the following or substantially identical language:

The limitation on use which appears in paragraph (i) of clause _____ entitled Data, shall be applicable only to the data called for by item(s) _____ and _____ or any specific portions of that data listed at the end of this paragraph if such data is marked in accordance with such paragraph (i). The Contractor agrees that the portion of Subject Data which is subject to such limitation on use will be furnished in such form as to be readily distinguished from the remainder of Subject Data which is not subject to such limitation on use. The identification in this paragraph of item(s) _____ of Part _____

of this contract (supplemental agreement, etc.) or the listing of such data following this clause shall not be deemed to constitute a determination by the Government that such data is "proprietary data", as defined in paragraph (h) of said clause. The limitation on use which appears in paragraph (i) of said clause is based upon the assertion by the Contractor that the data identified in this paragraph and listed at the end of this paragraph is "proprietary data" as defined in paragraph (h) of said clause. However, if such data is not "proprietary data", as defined in paragraph (h) of said clause, the limitation on use of such data shall be of no force and effect.

The listing of such data at the end of the paragraph set forth in this paragraph (a) may be by any suitable means, such as those which are in § 1009.203-2 (o) (2).

(b) Release of data subject to the restrictive provisions of paragraph (i) in § 9.203-3 of this title outside the Government may be made without the contractor's permission to another contractor only for the purpose of manufacture required in connection with repair or overhaul where an item is not procurable commercially so as to enable the timely performance of the overhaul or repair work. Whenever such data is to be released or disclosed outside the Government for such overhaul or repair purposes, the contracting officer will cause the following action to be taken:

(1) Include in the overhaul or repair contract the following clause:

Certain data furnished by the Government to the Contractor under this contract have been obtained by the Government subject to restriction upon disclosure. Such data or restricted portions are marked with an appropriate legend. Contractor will abide by the restrictions appearing on such data and will not use the information contained therein for other than the purposes set forth in this contract.

(2) Assure that the Notice, if authorized by paragraph (i) of § 9.203-3 of this title, appearing on the data is reproduced on the copies distributed.

§ 1009.203-4 Provision for addition to basic data clause for use in contracts for experimental, developmental, or research work.

The determination whether experimental, developmental, or research work is a principal purpose of a proposed or existing contract will be made by the buyer or contracting officer.

§ 1009.204 Contract clauses; special.

§ 1009.204-2 Production of motion pictures.

See § 1009.205-2(b).

§ 1009.205 Contracts for acquisition of existing works.

§ 1009.205-1 Off-the-shelf purchase of books and similar items.

See § 9.205-1 of this title.

§ 1009.205-2 Contracts for existing motion pictures.

(a) In contracts which are exclusively for procurement of unmodified existing motion pictures, the question of the rights to be obtained by the Air Force must be considered on a case-by-case

basis. In certain contracts it may be appropriate to have no data clause at all. In others, the clause will have to be prepared consistent with the purposes for which the material covered by the contract is being procured. The clause set forth in this paragraph is suggested as a general pattern but may be modified or altered in any way or omitted entirely by the procuring activity depending on the purpose of the particular contract. Subparagraph (1) of the clause set forth in this paragraph may include appropriate language to restrict the license to: (1) Television low-power military coverage, (2) AF base usage, (3) Air Force regular and reserve components only, and (4) Air Force regular, reserve, and civilian components only, or similar restricted usage:

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(1) The Contractor agrees to grant and does hereby grant to the Government a royalty-free, non-exclusive and irrevocable license to distribute, exhibit, and use the films called for under this contract for non-profit military purposes throughout the entire world and to authorize others to do so, but not to reproduce, revise, alter or telecast such films.

(2) The Contractor agrees to indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, for (i) violation of proprietary rights, copyrights, or rights of privacy, arising out of the exhibition or use of any material furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in said material.

(b) In contracts which call for the modification of existing motion pictures through the addition of subject matter specified by the contract, the clause in § 9.204-2 of this title will be included instead of the clause in § 9.205-2(a) of this title.

§ 1009.250 Copyright problems.

Copyright problems arising within AMC and WADC should be referred to AMC (MCJP), Hq AMC; within ARDC other than WADC to ARDC (RDJP), Hq ARDC. Copyright problems arising outside AMC or ARDC should be referred direct to the Chief, Patents Division, Office of the Judge Advocate General USAF, Hq USAF, Washington 25, D.C.

§ 1009.251 Copyright infringement claims.

All communications received in any AF activity in which a claim is made that a copyright has been infringed will be forwarded and action taken as provided in § 1009.105 (a) to (d).

Subparts C-I—[Reserved]

Subpart J—Processing of Purchase Requests and Military Interdepartmental Purchase Requests for Review

§ 1009.1000 Scope of subpart.

This subpart sets forth procedures for processing purchase requests (PR's) and military interdepartmental purchase requests (MIPR's) and prescribes the activity of the cognizant staff judge advocate for the procuring activity concerned, with respect to the inclusion of

patent and data clauses in appropriate cases.

§ 1009.1001 Responsibilities of initiator.

(a) Reference should be made to the directives for each procuring activity relative to the preparation of PR's and MIPR's. Further reference should be made to § 1009.202-1(a) (1), (2), and (3) with respect to acquisition of data.

(b) PR's and MIPR's need not be submitted to the staff judge advocate for review or recommendation as to the inclusion of the appropriate patent and data clauses.

§ 1009.1002 Activity of the staff judge advocate and exceptions to recommendations.

(a) Whenever a prospective contractor refuses to accept a patent or data provision, the use of which is authorized but is not mandatory under the ASPR or AFPI, the matter will be referred to the staff judge advocate for consideration and recommendation. The staff judge advocate will recommend in writing acceptance of any substitute provision proposed by the contracting officer or will furnish the contracting officer a written statement of the reasons why the proposed provision should not be accepted.

(b) The contracting officer will not consider any proposal or request preparation of a contract so long as there is any disagreement between the prospective contractor and the recommendations of the staff judge advocate concerning patent or data clauses unless an exception from the recommendations of the staff judge advocate has been approved as follows, within:

(1) AMC by the Deputy for Procurement, Hq AMC, on the written recommendation of AMC field procurement activities, ASC, and BMC.

(2) WADC by the Director of Procurement, Hq WADC.

(3) ARDC, other than WADC, by the Director of Procurement, Hq ARDC.

(4) Procuring activities other than in subparagraphs (1), (2), and (3) of this paragraph, according to the directives of each activity.

Subpart K—Processing and Clearance of Invention, Subcontract and Royalty Reports

§ 1009.1100 Scope of subpart.

This subpart establishes responsibilities and procedures for processing Invention Disclosure Reports, Interim and Final Reports of Inventions, Patentability Search Reports or Documents, Reports of Subcontracts, and Final Reports of Royalties required by contract clauses and for issuing of clearances, based on such reports, authorizing final payment of AF contracts.

§ 1009.1101 Applicability of subpart.

This subpart applies to the Patents and Royalties Division, Staff Judge Advocate, Hq AMC and Hq WADC, Directorate of Procurement and Production, Hq AMC, Patents Division, Staff Judge Advocate, Hq ARDC, AMC field procurement activities, AMC centers, AMC local and ARDC center staff judge advocates,

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and AF accounting finance offices responsible for administering contracts, pursuant to the requirements of the Patent Rights clause and Reporting of Royalties clause or approved deviations therefrom, contained in such contracts.

§ 1009.1102 Application.

The provisions of this subpart apply, except where otherwise specifically stated, to the reports required by: (a) The Patent Rights clause, (b) Reporting of Royalties clause (domestic) prescribed by § 9.110 of this title prior to ASPR Revision of October 15, 1958, and (c) Reporting of Royalties (Foreign) clause, as these clauses appear in contracts.

§ 1009.1103 Definitions.

For the purpose of this subpart:

(a) "Office administering the contract" is the administrative contracting officer (ACO), or, if there is no ACO assigned, the activity charged with the administration of the contract.

(b) "Contract" as used in this subpart means the contract and all supplemental agreements and change orders thereto.

(c) "Clearance" means a letter or other formal communication forwarded to the office administering the contract by the appropriate staff judge advocate's office, stating that the reporting requirements of the Patent Rights and the Reporting of Royalties clause contained in a contract have been complied with by the contractor.

§ 1009.1104 Clearance procedures.

For all type contracts, the offices designated in this section will process clearances as follows:

(a) The cognizant AMC or ARDC staff judge advocate's office, as appropriate, will forward an original and two copies of the clearance to the office administering the contract.

(b) The office administering the contract will: (1) Mark the original and one copy of the clearance for the accounting and finance office, (2) attach them to the voucher liquidating the reserve, (3) make appropriate certification, and (4) then forward to the accounting and finance office the original and the one copy earmarked for the accounting and finance office, together with the voucher liquidating the reserve. The office administering the contract will retain one copy of the clearance.

(c) The accounting and finance office will forward the original to the General Accounting Office and retain the earmarked copy.

§ 1009.1105 Responsibility of contractor.

AF contracts containing a Patent Rights clause or a Reporting of Royalties clause place upon the contractor the obligation of forwarding the following information directly to the office administering the contract:

(a) *Invention reports.* If the contract contains a Patent Rights clause, the following forms of reports are required:

(1) *Invention disclosure reports.* Written disclosures of each Subject Invention which reasonably appears to be patentable should be submitted promptly after the invention is conceived or

first actually reduced to practice. See paragraph (c)(i) of the Patent Rights clause in § 9.107-2(b) of this title. Since no forms have been prepared by the Government for the use of contractors in preparing and forwarding Invention Disclosure Reports, contractors will submit such reports on their own forms or by letters. Each Invention Disclosure Report should be submitted in two copies and should contain or be accompanied by the following information:

(i) Name of inventor.

(ii) Title of invention.

(iii) Patent application serial number and/or contractor's invention docket number.

(iv) Date of filing or approximate date of expected filing, or a statement that a patent application claiming the invention will not be filed by or on behalf of the contractor.

(v) A statement as to whether or not AFPI Form 83, "Contractor's Confirmatory License to Government," or equivalent form furnished by contractor, has been forwarded to the contracting officer.

(vi) Where the contractor has determined to file an application but has not done so at the time of the report, a brief written description accompanied by appropriate drawings or sketches illustrating the invention.

(vii) Where the contractor has decided not to file an application for a patent, a written description, drawings and other data constituting the invention disclosure, which will be sufficiently complete to permit further patent processing by the Government with a minimum of delay.

(2) *Interim reports of inventions.* Interim Reports are required only under the versions of the Patent Rights clause in effect since January 4, 1955. The contractor is required under paragraph (c)(ii) of the clause in § 9.107-2(b) of this title to submit an Interim Report at least every 12 months, commencing with the effective date of the contract, listing all Subject Inventions which were conceived or first actually reduced to practice more than 3 months prior to the date of the report, or certifying that there were no such inventions. Each Interim Report will list any inventions not listed in a prior Interim Report. The contractor has the option of submitting Interim Reports by either of the following methods, by the use of:

(i) Section I, DD Form 882, "Report of Inventions and Subcontracts," in three copies, as authorized in § 16.809 of this title.

(ii) Contractor's own form or letter in three copies which contain all the information specified in subparagraph (2) of this paragraph.

(3) *Final report of inventions.* The contractor is required under paragraph (c)(iii) of the clause in § 9.107-2(b) of this title to submit a Final Report of Inventions prior to final settlement of the contract. The Final Report should include: (1) A summary list of all Subject Inventions required by the contract to be reported, including all inventions which have been previously reported in Invention Disclosure Reports or in In-

terim Reports of Inventions; and (ii) a statement that the inventions listed in the Final Report are the only Subject Inventions required to be reported under the contract. The Final Report must be accompanied by an Invention Disclosure Report of the content specified in subparagraph (1) of this paragraph for each Subject Invention conceived or first actually reduced to practice in the performance of the contract and concerning which a report has not previously been furnished. A negative report must be submitted by the contractor when there were no Subject Inventions under the contract. The contractor has the option of submitting Final Reports by either of the following methods, by the use of:

(i) Section 1, DD Form 882, "Report of Inventions and Subcontracts," in three copies as authorized in § 16.809 of this title.

(ii) Contractor's own form or letter, in three copies which contain all the information specified in subparagraph (3) of this paragraph.

(4) *Patentability search reports.* If the conditions in § 1009.107-2(b)(2) exist, the contractor will submit one copy of the relevant patentability search report or document to the contracting officer at the same time the contractor notifies the contracting officer that the contractor will not file a patent application on a Subject Invention.

(b) *Subcontract reports.* The contractor is required, under the provisions of paragraph (h) of the Patent Rights clause in § 9.107-2(b) of this title, to furnish a Subcontract Report at the earliest possible date, but in any event prior to final settlement of the contract.

(1) If there were no subcontracts containing a Patent Rights clause, a negative report is required.

(2) For each subcontract containing a Patent Rights clause, the report should include: (i) The name and address of the subcontractor, (ii) subcontract number, (iii) a copy of the subcontract Patent Rights clause or the date on which a copy was previously furnished to the office administering the contract, and (iv) an estimate as to the date when such subcontract is expected to be completed. The contractor has the option of submitting the required information by either of the following methods, by the use of:

(a) Section II, DD Form 882, "Report of Inventions and Subcontracts," in three copies as authorized in § 16.809 of this title.

(b) Contractor's own form or letter, in three copies which contain the information specified in subparagraph (2) of this paragraph.

(c) *Royalty reports.* If the contract contains a Reporting of Royalties clause or the Reporting of Royalties (Foreign) clause and is in an amount which exceeds \$50,000, the contractor is required to submit Royalty Reports according to the provisions of the appropriate clause.

(1) Royalty Reports under paragraph (a) of the Reporting of Royalties clause and under the Reporting of Royalties (Foreign) clause.

(i) The contractor has the option of submitting the required information by

either of the following methods, by the use of:

(a) DD Form 783, Royalty Report, in four copies including all information called for by that form.

(b) Contractor's own form or letter, submitted in four copies containing the same information called for by DD Form 783.

(ii) A negative report must be submitted when no royalties in excess of \$250 have been paid or are to be paid to any one person or firm in connection with the performance of the contract, but no report is required covering royalties paid by subcontractors.

(2) Royalty Reports under paragraph (b) of the Reporting of Royalties clause.

(i) When the contractor has obtained approval under the provisions of paragraphs (b) and (c) of the clause to file a single consolidated report of royalties, two copies of the letter of approval may be submitted in lieu of the report required by paragraph (a) of the clause.

(ii) Reports authorized under paragraph (b) of the clause will be submitted by use of contractor's own form or letter according to the letter of approval as soon as practicable after the close of the accounting period covered by the report, and will contain the required information.

(iii) A negative report must be submitted for the accounting period when the total amount of royalties accruing to each licensor is at a rate less than \$1,000 per annum on the contractor's over-all business.

§ 1009.1106 Responsibility of office administering the contract.

The office administering the contract will be responsible for the following action regarding the various reports submitted by the contractor under § 1009.1105.

(a) *Invention disclosure reports and interim reports of inventions.* (1) Review each report submitted to determine whether it contains all the information required for a report of that type under paragraph (a) (1) and (2) of § 1009.1105. If the report does not contain all such information, the necessary additional information should be obtained immediately from the contractor.

(2) Forwarding all copies of each Invention Disclosure Report and two copies of each Interim Report of Inventions, one of which must be an original and manually signed by the appropriate authorized representative of the contractor, and all inclosures, directly to the AMC or ARDC staff judge advocate of the procuring activity which wrote the contract. One copy of the report will be retained by the office administering the contract as a part of the official contract file and disposed of according to existing records disposition procedures.

(b) *Final reports of inventions, reports of subcontracts, and reports of royalties.* (1) Insure that each of these reports is obtained from the contractor in sufficient time to enable the issuance of clearances, as hereinafter provided, before the presentation by the contractor of its completion voucher to the cognizant audit office or accounting and fi-

nance office. Immediately upon receipt of a contract containing the Patent Rights and/or Reporting of Royalties clause, the office administering the contract should establish a target date for requesting the required reports from the contractor. Normally at approximately 75 percent of completion of the contract or 60 to 90 days in advance of final shipment on the contract, if the required reports have not already been submitted the contractor should be requested to submit them as soon as practicable after completion of the work under the contract. The office administering the contract may find Section II of the Uninvoiced Dollar Balance Report helpful in fixing the point at which the required reports should be solicited from the contractor.

(2) Checking each report submitted to determine whether it is complete and contains all the information required for a report of that type set forth under paragraph (a) (3), (b), or (c) of § 1009.1105. If the report is not complete in all respects, the necessary additional information should be obtained immediately from the contractor.

(3) Forwarding copies of these reports, at least one of which must be an original and manually signed by the appropriate authorized representative of the contractor, as follows:

(i) Final reports of invention. The original and one copy of the report and all inclosures, including the name and organization of the cognizant project engineer, where appropriate, directly to the staff judge advocate of the procuring activity which wrote the contract. One copy of the report will be retained by the office administering the contract as a part of the official contract file and disposed of according to existing records disposition procedures.

(ii) Subcontract Reports will be processed as in subdivision (i) of this subparagraph. The copy of any subcontract Patent Rights clause submitted by the contractor should be forwarded directly to the staff judge advocate of the procuring activity which wrote the contract.

(iii) Report of Royalties. The original and two copies of the report and all inclosures, or one copy of the letter of approval (see paragraph (c) (2) of § 1009.1105) will be processed as in subdivision (i) of this subparagraph.

(c) *Patentability search reports.* (1) Check each report or document submitted to determine whether it is complete and contains all the information required by § 1009.107-2(b) (2). If the report or document is not complete in all respects, the necessary additional information should be obtained immediately from the contractor.

(2) Forward all copies of each report or document directly to the staff judge advocate of the procuring activity which wrote the contract. The transmittal of such report or document should either accompany or reference the Invention Disclosure Report or Report of Inventions reporting the invention which is the subject of the Patentability Search Report or document.

§ 1009.1107 Responsibility of AMC local staff judge advocates or ARDC center staff judge advocates.

The staff judge advocate of the procuring activity which wrote the contract will take the following action with respect to reports submitted by contractors and transmitted to the staff judge advocate according to § 1009.1106.

(a) *General.* Review all reports for proper compliance with pertinent contractual requirements and the requirements of § 1009.1105. If a report is not complete in all respects, the necessary additional information should be obtained immediately from the contractor through the office administering the contract before any clearances are made or reports forwarded to the appropriate Command Staff Judge Advocate.

(b) *Invention reports.* (1) *Invention disclosure reports.* Invention disclosure reports, after examination for adequacy and completeness, will be forwarded, in the case of contracts written by an AMC or WADC procuring activity to Hq AMC (MCJP). In the case of contracts written by an ARDC procuring activity other than WADC, the cognizant center staff judge advocate will obtain and forward to ARDC (RDJP), AFPI Form 83, "Contractor's Confirmatory License to Government," or equivalent form furnished by contractor, to inventions on which the contractor reports it has filed or will file patent applications, or obtain ARDC Form 203, "Invention Evaluation," for inventions on which the contractor has stated it will not file, and forward the evaluation and disclosure to RDJP.

(2) *Interim reports of inventions.* (i) Negative. If the Interim Reports of inventions are negative, the reports will not be forwarded to MCJP or RDJP, but will be retained by the local or center staff judge advocate until the contract has been cleared according to paragraph (f) of this section.

(ii) Affirmative. Affirmative Interim Reports of inventions which summarize only inventions which have been previously disclosed will be handled according to subdivision (i) of this subparagraph. If an affirmative report of inventions lists inventions not previously disclosed, the AMC local or ARDC center staff judge advocate, as appropriate, will request through the office administering the contract a complete disclosure from the contractor.

(3) *Final reports of inventions.* (i) Affirmative. If the final report is affirmative in that the contractor has reported that Subject Inventions were made under the contract, forward all copies of such reports to MCJP or to RDJP, as appropriate.

(ii) Negative. If the final report under any type of contract other than a Technical Representative Service Contract is negative in that the contractor has reported that no Subject Inventions were made under the contract, the opinion of the appropriate project engineer or other qualified Government personnel will be obtained. It is to be emphasized that this laboratory check should be made independently of the

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contractor and without his collaboration. If no such qualified personnel are available at the AMA or center receiving the report, it will be forwarded to the appropriate Command Staff Judge Advocate for clearance. If such an opinion can be obtained at the AMA or center, and the person contacted concurs in the report, clearance will be issued according to paragraph (f) of this section. If the person contacted believes that the contractor did conceive or first reduce to practice an invention in the performance of the contract, the matter will be referred back to the contractor, making specific reference to the development in question. Negative reports under Technical Representative Service contracts may be cleared without laboratory check according to paragraph (f) of this section.

(4) *Patentability search reports.* Each report or document will be forwarded to MCJP or RDJP, as appropriate. The transmittal of such reports or documents will either accompany or reference the Invention Disclosure Report or Report of Inventions reporting the invention which is the subject of the Patentability Search Report.

(c) *Subcontract reports.* (1) If the report from the prime contractor shows that subcontracts were awarded which contained a Patent Rights clause and that the subcontracts are complete, conduct correspondence with each subcontractor listed to obtain, according to the particular Patent Rights clause included in its subcontract, either of the following:

(i) One copy of a negative report of inventions when no invention, within the terms of the subcontract Patent Rights clause, was made by the subcontractor.

(ii) Two copies of full Invention Disclosure Reports containing the information required in § 1009.1105(a) (1) for any inventions, within the terms of the subcontract Patent Rights clause, made by the subcontractor. If appropriate, one copy of each Patentability Search Report or similar document will be requested of the subcontractor for each of such inventions if the subcontractor has had such a search made with respect to such inventions or has otherwise determined that such invention reasonably appears to be patentable, if the subcontractor decides not to file a patent application, and if the costs of such search or determination are allowable as an item of cost under the subcontract, or such search or determination will be furnished without specific charge.

(2) Subcontractors' Invention Disclosure Reports and Patentability Search Reports or Documents will be processed in the same manner as those of prime contractors.

(3) Forwarding of prime contractor invention and Royalty Reports should not be delayed to include subcontractors' Invention Disclosure Reports.

(d) *Royalty reports.* All copies of affirmative Royalty Reports received pursuant to the Reporting of Royalties clause and Reporting of Royalties (Foreign) clause will be forwarded to the

appropriate Command Staff Judge Advocate.

(e) *AFPI Form 70, "Contract legal record card."* The Contract Legal Record Card is exempt from the assignment of a Reports Control Symbol.

(f) *Clearance for final payment.* According to §§ 1009.1103(c) and 1009.1104, clearances will be made as follows:

(1) *Clearances under patent rights clause.* Contractor must submit both a Subcontract Report (see § 1009.1105(b)) and a Final Report of Invention (see § 1009.1105(a)(3)) before clearance under the Patent Rights clause can be made. The further processing of prime contractors' affirmative Subcontract Reports required by paragraph (c) of this section need not be accomplished prior to clearance. Clearance procedure further depends on whether the Final Report of Invention is affirmative or negative.

(i) *Affirmative.* Clearance for contracts written by AMC and WADC procuring activities will be requested of and processed by MCJP. Clearance for contracts written by an ARDC procuring activity other than WADC will be made and processed according to § 1009.1104. Copies of ARDC clearances need not be forwarded to RDJP.

(ii) *Negative.* If the final report is negative and is submitted under a Technical Representative Service Contract, issue clearance according to § 1009.1104 without further investigation or action. If the final report is negative and is submitted under any other type of contract, issue clearance according to § 1009.1104 when it is determined under subparagraph (3)(ii) of paragraph (b) of this section that clearance should be granted. Copies of clearances and allied papers will not be sent to the Command Staff Judge Advocate.

(2) *Clearance under reporting of royalties clause in contracts.*

(i) If the Royalty Report in all respects meets the requirements of § 1009.1105(c), issue a clearance, if the report is negative, to the appropriate administrative office according to § 1009.1105(e), sending a copy of AFPI Form 70 with appropriate entries on its reverse side to MCJP for contracts written by an AMC procuring activity. If the report shows royalties paid, withhold clearance and refer the matter to the appropriate Command Staff Judge Advocate. Clearance will be made, when appropriate, by MCJP or RDJP.

(ii) If a contract written by an AMC procuring activity contains both a Reporting of Royalties clause and a Patent Rights clause and the question of clearance under the Patent Rights clause must be referred to MCJP under subparagraph (1)(i) of this paragraph, then forward the original and one copy of the Report of Royalties to MCJP and withhold clearance. Clearance will be made, when appropriate, under both clauses by MCJP. In all such cases relating to contracts written by an ARDC procuring activity, center staff judge advocates will withhold clearance until written notice to furnish such clearance is received from RDJP.

§ 1009.1103 Responsibility of accounting and finance office.

If the accounting and finance office receives the completion voucher from the contractor for final payment on a contract for which the office administering the contract confirms that necessary clearances have not been received by it, the accounting and finance office will forward to the appropriate AMC or ARDC staff judge advocate of the procuring activity which wrote the contract a request for the status of clearance. An information copy of this request should be forwarded directly to the office administering the contract. This request will set forth the contractor's name and address, contract number, and the nature of the clearance about which information is desired. Upon the receipt of such a request, the appropriate AMC staff judge advocate or appropriate ARDC staff judge advocate will obtain the required reports, process them according to § 1009.1107, and advise the requesting office of the status of clearance.

§ 1009.1109 Responsibility of Hq AMC and Hq ARDC.

MCJP, Hq AMC, and RDJP, Hq ARDC, will be responsible for the following action with respect to the various types of reports:

(a) *General.* Rendering advice and assistance on all questions concerning this Subpart K which have been forwarded through the appropriate AMC local staff judge advocate or ARDC center staff judge advocate.

(b) *Invention disclosure reports and interim reports of inventions.* Taking necessary steps, according to the terms of the Patent Rights clause, to obtain assignments of inventions on which the contractor has elected not to file patent applications but on which the Government intends to file patent applications. AFPI Form 70A, "Invention Disclosure Evaluation," and ARDC Form 203, "Invention Evaluation," are authorized for use in obtaining technical evaluation from laboratories on such invention disclosures.

(c) *Confirmatory licenses.* MCJP will obtain AFPI Form 83 or equivalent form furnished by contractor, to inventions on which the contractor has reported that it has filed or will file patent applications.

(d) *Final reports of inventions and subcontract reports.* Making laboratory check with project engineer or other technically qualified Government personnel monitoring the contract on behalf of the Air Force as to the completeness of the Final Report of Invention submitted by the contractor or subcontractor. (Applicable to reports forwarded by an AMC local staff judge advocate or ARDC center staff judge advocate without clearance pursuant to § 1009.1107(f)(1).)

(e) *Royalty reports.* Checking all affirmative reports as to appropriateness of payment of the royalties reported and conducting necessary correspondence with contractors and/or their licensors to resolve all questions arising from the reports.

(f) *Clearance.* In the case of final invention reports submitted by an AMC local staff judge advocate without clearance, MCJP will issue clearance after a laboratory check has been completed; in the case of royalty reports, clearance will be issued after the appropriateness of the royalty report has been determined. Clearance will be sent according to §§ 1009.1103(c) and 1009.1104, with an information copy to the appropriate AMC local staff judge advocate. In the case of such reports submitted to RDJP, similar action will be taken and authorization for clearance sent to the appropriate center staff judge advocate.

§ 1009.1110 Discount provisions; expedition.

All correspondence under this Instruction which relates to a contract which contains discount provisions should be marked prominently by rubber stamp impression or other suitable means, with the legend: "Discount-Expedite".

PART 1010—BONDS AND INSURANCE

1. A correction was inserted 24 F.R. 6309, August 6, 1959, to change the title of Subpart B from "Sureties on Bonds" to "Sureties of Bonds." The correct title is: "Sureties On Bonds."

PART 1012—LABOR

Subpart D—Labor Standards In Construction Contracts

1. In § 1012.404-2(a)(2), the last sentence is revised, and paragraph (e) is revised as follows:

§ 1012.404-2 Wage determinations.

(a) * * *

(2) Limited area (54A) determinations: * * * This type of determination is applicable in the following states:

| | |
|--------------|-----------------|
| Alabama. | Nebraska. |
| Arkansas. | New Mexico. |
| Florida. | North Carolina. |
| Georgia. | North Dakota. |
| Iowa. | Oklahoma. |
| Kansas. | South Carolina. |
| Louisiana. | South Dakota. |
| Maryland. | Texas. |
| Mississippi. | Virginia. |
| Maine. | |

(e) *Posting.* (1) Upon making the award, the contracting officer will supply the contractor with one or more copies (depending upon size of construction site) of the Wage Rate Information Poster (SOL-155). The name and address of the AF office responsible for the administration of the contract will be inserted in the blank box in the middle of the poster to inform workers where complaints or questions concerning labor law violations may be made.

(2) The contractor will be required to post, in at least one conspicuous place, a copy of the Wage Rate Information Poster together with the applicable wage determination.

2. In § 1012.404-3, paragraph (b) is revised as follows:

§ 1012.404-3 Additional classifications.

(b) If the need for additional classification arises after award of contract, the contracting officer may authorize the contractor to employ such classifications on the work providing the contractor has furnished a signed request justifying the use of additional classifications and the wage rates proposed to be paid. The contractor will submit the request to the contracting officer in triplicate. If the request is approved, one copy will be returned to the contractor, one copy will be made part of the contract records, and one copy will be sent immediately to the Davis-Bacon Section, Department of Labor, Washington 25, D.C.

3. Section 1012.404-4 is deleted and the following substituted therefor:

§ 1012.404-4 Apprentices.

See § 12.404-4 of this title.

4. In § 1012.404-6, the first sentence of the material following paragraph (b) (2) (iv) is deleted; paragraph (c) is revised as follows:

§ 1012.404-6 Payrolls and affidavits.

(c) *Preservation of records.* See § 12.404-6(c) of this title.

5. In § 1012.404-9, a new paragraph (f) is added as follows:

§ 1012.404-9 Suspensions and deductions of contract payments.

(f) If the contractor does not make voluntary restitution or if any of the underpaid employees cannot be located, the funds withheld for payments due employees under the Davis-Bacon Act will be transferred to the General Accounting Office, Washington 25, D.C., on Standard Form 1093, "Schedule of Withholdings under the Davis-Bacon Act." If the Standard Form 1093 is transmitted to the GAO on a case in which a labor standards investigative report is forwarded to the Department of Labor, a note will be included on the Standard Form 1093 stating, "Investigative Report is being forwarded to the Department of Labor pursuant to Regulations Part 5, CFR." In other cases (generally non-willful cases where total amount of restitution is under \$200), a notation will be made on the back of the Standard Form 1093 indicating the number of employees underpaid by the contractor; the number of employees paid with the amounts paid each; and the number of employees who could not be located for payment and the amounts due each. Each such statement should include a recommendation against imposition of ineligibility sanctions.

Subpart F—Walsh-Healey Public Contracts Act

1. In § 1012.602-2(a), the title is changed to: Class exemptions; paragraph (b) is deleted in its entirety and a new paragraph (b) is substituted therefor:

§ 1012.602-2 Department of Labor regulations and interpretations.

(b) *Individual exceptions.* Section 6 of the Act also permits the Secretary of Labor to exempt specific contracts from the requirements of Section 1 of the Act when extenuating circumstances exist. When the need for an individual exception arises, base contracting officers and ACO's for facility contracts will submit a request for processing instructions to the Staff Judge Advocate, Hq AMC.

2. In § 1012.603, the material following the clause is deleted; a sentence is added to paragraph (b), and new paragraphs (c), (d) and (e) are added as follows:

§ 1012.603 Responsibilities of contracting officers.

(b) * * * Also for requiring contractors to properly display poster PC-13 whenever engaged in performing contracts to which the Walsh-Healey Public Contracts Act applies.

(c) Furnishing the contractor a Form Letter (Form PC-12), which informs him of his responsibilities under the Walsh-Healey Public Contracts Act and putting him on notice that he may be liable for work done by other companies assisting him in the performance of the contract.

(d) Reporting to the Department of Labor each contract except those classified Confidential or higher, that is subject to the Walsh-Healey Public Contracts Act within a few days following the award. Since contracts subject to the Walsh-Healey Public Contracts Act which are classified Confidential or higher are not reported to the Department of Labor, properly authorized representatives (who possess adequate security clearance) of the Wage and Hour and Public Contracts Division will be given access to information concerning the award of such contracts where it is believed that a contractor may be violating the provisions of the Act.

(e) Submitting report of any violations of representations or stipulations required by the Walsh-Healey Public Contracts Act to Director of Procurement and Production, Hq USAF, through the Staff Judge Advocate, Hq AMC, for transmittal to the Department of Labor.

A new Subpart G is added as follows:

Subpart G—Fair Labor Standards Act of 1938

Sec.

1012.701 Basic statute.

1012.702 Suits against Government contractors.

1012.703 Rulings on applicability or interpretation.

AUTHORITY: §§ 1012.701 to 1012.703 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

§ 1012.701 Basic statute.

See § 12.701 of this title.

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§ 1012.702 Suits against Government contractors.

Contractors' request for approval of private counsel for the defense of Fair Labor Standards Act suits under Cost or Cost-Plus-a-Fixed-Fee contracts will be processed for approval action in accordance with prescribed procedures.

§ 1012.703 Rulings on applicability or interpretation.

See § 12.703 of this title.

Subpart H—Nondiscrimination in Employment

1. Sections 1012.806-1, 1012.806-2, 1012.806-3 and 1012.806-4 are deleted and the following substituted therefor:

§ 1012.806-1 General.

The Manual entitled "A Manual for the Guidance of Personnel Engaged in Obtaining Compliance with the National Equal Job Opportunity Program" should be available in all AF contracting offices. This Manual can be obtained through normal publications distribution channels from Air Force Publications Distribution Center, Washington 25, D.C.

§ 1012.806-2 Educational responsibility.

ACO's will at the earliest practical time acquaint the contractor with his responsibilities under the Nondiscrimination clause. To assure that the contractor is aware of his responsibility under this provision, the contracting officer will, with every contract and purchase order over \$1,000 (see § 12.803 of this title), submit a letter to the contractor setting forth statements that:

(a) In connection with the performance of work under the contract, award of the contract entails a contractual obligation not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin.

(b) Encourage and persuade compliance by the contractor with the spirit as well as the letter of the Nondiscrimination clause in his contract.

(c) Included in the review of the contractor's performance will be a review of his compliance with the provisions of the Nondiscrimination clause.

(d) Special reviews may be conducted to measure progress in the Nondiscrimination Program as well as to furnish educational data in connection with the program.

(e) Where applicable, incorporation of the Nondiscrimination clause of his first-tier subcontracts entails his furnishing such subcontracts with copies of the notice for posting, as required in §§ 12.802 and 12.803 of this title.

(f) Where applicable, his requests for copies of the notices will be directed to the ACO, and that the contractor has the responsibility of furnishing such notices to his subcontractors.

§ 1012.806-3 Posting of notices (EEO posters).

(a) The notices referred to in § 12.806-3 of this title will be acquired and distributed as follows:

(1) Contract distribution offices within AF procurement activities will distribute at least one copy of the notice

to all contractors receiving contracts, including letter contracts and notices of award that do not fall within the exceptions pursuant to § 12.803(a) of this title.

(2) All additional requests for notices, such as for the prime contractor's facilities or subcontractor's facilities, will be directed to the contracting officer administering the contract.

(3) The notices, titled "Equal Economic Opportunity," President's Committee on Government Contracts, will be requisitioned through normal publication distribution channels from Air Force Publications Distribution Center, Washington 25, D.C.

§ 1012.806-4 Compliance of reviews.

(a) Compliance reviews will consist of routine and special reviews of contractors' plants as described in paragraphs (b) and (c) of this section.

(b) *Routine reviews.* (1) Routine compliance reviews presented in § 12.806-4(b) of this title are considered a normal part of contract administration and are the responsibility of the contracting officer administering the contract. Contracting officers should use the services of AF inspectors or other available AF personnel to perform this review. A routine review of the practices of the contractor to ascertain compliance with the requirement of the clause in the contract will consist of the following action.

(i) Determine that the contractor has received the letter from the contracting officer as stated in § 1012.806-2.

(ii) Determine that the Equal Economic Opportunity Posters are conspicuously and sufficiently displayed for employees and applicants.

(iii) Determine that the "Nondiscrimination in Employment" clause is included in first tier subcontracts (Purchase Orders) as required in §§ 12.802 and 12.803 of this title.

(2) In special cases where there are no AF personnel available in base procurement activities for a routine review because of an unreasonable distance to the facility, the contracting officer administering the contract will arrange with the geographical AMA in which the contractor is located for the routine review to be accomplished by an AF official on a visit to the facility.

(3) Indications of noncompliance in routine reviews will be immediately reported to the contracting officer administering the contract for correction.

(4) Contractors who fail to correct discrepancies noted during routine reviews performed according to paragraph (b) (1) of this section will be reported with complete supporting data to AMC (MCPM) for appropriate action under paragraph (c) of this section.

§ 1012.806-5 [Amendment]

2. In § 1012.806-5, the reference is changed to read: "§ 12.806-5 of this title."

§ 1012.806-6 [Amendment]

3. In § 1012.806-6, the reference is changed to read: "§ 12.806-6 of this title." Section 1012.806-6 is redesignated § 1012.806-7 and is revised to read as follows:

§ 1012.806-7 Processing of complaints.

Only complaints complying with § 12.806-5 of this title and involving contractors and subcontractors under AF contract administration cognizance will be processed through AMC (MCPM), for investigation by industrial manpower representatives in AMAs or APDs. When field offices are unable to determine cognizance, the complaint will be referred through channels until cognizance is determined. When it is determined that the facility involved is under the cognizance of an agency other than the Air Force, the complaint will be forwarded through channels to HQ USAF (AFMPP-PR-3) for referral to the other agency. When informal complaints are received by an ACO or an AF plant representative in an AF facility, they will be referred to AMC (MCPM) for direct investigation by the industrial manpower representative in the AMA or APD.

4. Section 1012.806-7 was erroneously deleted 24 F.R. 6314, August 6, 1959.

Former § 1012.806-7 is redesignated § 1012.806-8, as follows:

§ 1012.806-8 Reporting channels.

(a) Reports of investigations containing the information indicated in §§ 12.806-4(c) and 12.806-7 of this title will be submitted in quintuplicate to AMC (MCPM). Inclosures to support factual conditions should be attached to the report. MCPM will prepare a summary report in quadruplicate for HQ USAF (AFMPP-PR-3) to accompany the investigation findings.

(b) Reports on "Nondiscrimination in Employment (special reports, reviews, and complaints) in Air Force Contracts" are assigned RCS: AF-XOA-N3. MCPM will submit a summary letter report semiannually to HQ USAF (AFMPP-PR-3). The report is due on the 15th of January and 15th of July and will include:

(1) Number of surveys conducted, general and specific findings, conclusions, and recommendations to improve the program.

(2) Number of reports on complaints processed to HQ USAF.

(3) Adequacy of AF directives and procedures.

(4) A cumulative evaluation of all previous periods reported to determine the effect of the nondiscrimination program.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1013—GOVERNMENT PROPERTY**Subpart A—General**

1. Section 1013.101-67 is added as follows:

§ 1013.101-67 General purpose production equipment.

The term "general purpose production equipment" means those machine tools and related production equipment performing a production operation of a

type customarily performed in a well-equipped industrial shop.

2. In § 1013.102-3, subparagraph (8) of paragraph (k) is added as follows:

§ 1013.102-3 Facilities.

(k) *Restricted items.* * * *

(8) *General purpose production equipment.* Neither general purpose production equipment nor funds to procure them will be provided to contractors by the Air Force except when determination is made that such action is clearly in the best interest of the Government. Such determination may be made if the contractor's proposal is supported by a "Make or Buy" evaluation for each general operation involved, together with supporting justification in the form of acceptable reasons why the contractor is unwilling or financially incapable of providing general purpose machinery and equipment, and is in other respects fully documented. Determination of exceptions will be by Chief, Industrial Facilities Division, ASC or Director of Resources, BMC, as appropriate.

Subpart D—Industrial Facilities

1. In § 1013.401, subparagraph (4) of paragraph (c) is revised to read as follows:

§ 1013.401 Award of procurement contracts.

(c) *Procurement contracts requiring the use of Government facilities already with the contractor.* * * *

(4) Specific approvals by the facilities contract issuing office are required to use such clause if: (i) The procurement contract is for a different end item than the primary purpose of the facilities and would interfere with the primary purpose or (ii) if use of the facilities would be required beyond the anticipated date of completion of the primary purpose. The term "primary purpose" is not limited to the purpose for which the facilities were originally provided but includes the purpose for which the facilities are currently allowed to remain with the contractor. Requests for approvals will be supported by full justification for the proposed action, see § 13.407 of this title and § 1013.407 of this chapter.

2. Section 1013.403 is deleted and the following substituted therefor:

§ 1013.403 Single facilities contract.

Determination of impracticability under § 13.403 of this title covering the issuance of facilities contract and lease agreements will be made by the contracting officer of the office issuing the contract or lease. Prior to making such determinations the contracting officer will obtain the approval of MCPK for the proposed action. For this purpose separate divisions of a single corporation will be deemed to be separate contractors if such divisions are normally represented by separate business offices for the purpose of contract negotiation and administration.

Subpart F—Use of Government-Owned Industrial Facilities on Work Other Than for a Military Department

1. Sections 1013.601-2 and 1013.601-3 are added as follows:

§ 1013.601-2 Rental rates.

(a)-(b) See § 13.601-2 (a)-(b) of this title.

(c) See § 13.601-2(c) of this title; also, the Use and Charge Clause, § 1007-2703-12(a) of this chapter.

§ 1013.601-3 Exceptions.

(a) See § 13.601-3(a) of this title.

(b) In negotiations which include real property to be used for commercial purposes, rental charges will normally be computed at the following annual rental rates, based on acquisition costs:

(1) For land and land preparation, 5 percent per annum.

(2) For buildings, building installations, and land installations, 8 percent per annum.

(c) See § 13.601-3(c) of this title; also, the Use and Charge Clause, § 1007-2703-12(a) of this chapter. Equipment items of unusual size or performance characteristics may be negotiated and the exception conditions identified in submittal of proposed lease according to § 1013.601-50.

(d)-(e) See § 13.601-3 (d)-(e) of this title.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1014—INSPECTION AND ACCEPTANCE

1. Sections 1014.000 and 1014.001 are deleted and the following substituted therefor:

§ 1014.000 Scope of part.

This part sets forth general policy and basic requirements for the inspection and acceptance of supplies and services.

§ 1014.001 General policy.

(a) Inspection will be conducted only when a contract exists or when there is reasonable assurance that the supplies will be reserved for delivery on Air Force or other military contracts.

(b) The determination of conformance of supplies and services to contract requirements will be made on the basis of objective evidence of quality and quantity. Optimum use shall be made of quality data generated by contractors in determining acceptability of supplies and services. To the extent that contractor quality data are available and reliable, these data shall be used to adjust the amount of Government inspection and surveillance to a minimum consistent with proper assurance that supplies and services accepted conform to contract requirements.

Subpart A—Inspection

1. Sections 1014.100 through 1014.103-3 are deleted and the following substituted therefor:

§ 1014.100 Definitions.

See § 14.100 of this title.

§ 1014.101 General.

Contracts will contain the standard inspection and quality control clauses prescribed in Part 7 of this title and Part 1007 of this chapter. These clauses generally require the contractor to provide and maintain an acceptable quality control (inspection) system. To provide a uniform standard for determining the acceptability of that system, procurements for chemicals will generally contain Specification MIL-Q-7640; procurements for other supplies or services will call for Specification MIL-Q-9858. Any changes to the requirements of these specifications, or to the waiver of their application, will be referred to AMC (MCQ) or to the quality control office at the appropriate AMA for approval.

§ 1014.102 Responsibility for inspection.

(a) AMC is responsible for assuring the accomplishment within the Air Force of the procurement quality control objectives of the Department of Defense. These objectives are: (1) Achieve adequate, uniform, and economical procurement inspection, testing, and acceptance; (2) eliminate duplication, overlapping, and multiple quality control assignments; (3) have all military quality control at a plant conducted by a single military quality control activity, and (4) develop and implement uniform quality control procedures, methods, and practices.

(b) AMC is responsible for developing quality control procedures and acceptance criteria having general application to all products. ARDC is responsible for developing, in collaboration with AMC, inspection procedures and acceptance criteria particularly applicable to the product.

(c) AMC will normally accomplish inspection and acceptance functions at contractors' facilities. Where contractors are to perform work or services at AF installations, the technical and inspection capabilities of such installations will be used to the fullest extent practicable for accomplishing these functions. AMC will provide necessary technical assistance and administrative support.

§ 1014.102-1 Inspection interchange agreements.

Inspection at contractors' plants is to be conducted by a single military activity.

§ 1014.102-2 Inspection for other Government agencies.

See § 14.102-2 of this title.

§ 1014.103 Inspection requirements.

§ 1014.103-1 Points of inspection.

(a) To aid in determining the point of inspection, the procuring and quality control (inspection) activities will collaborate in establishing categories of supplies appropriate for either source or destination inspection and acceptance. Unless there are compelling reasons, there will be only one inspection of material. For example, source inspection will not be called for if the supplies are ap-

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proper for destination inspection and acceptance. Normally, the point of inspection and acceptance will be specified in the contract by using one of the following "inspection options":

(1) Inspection and acceptance at

(Insert contractor's plant or other source location(s))

This determination is made in compliance with §§ 14.103-2 and 14.202 of this title.

(2) Inspection and acceptance at

(Insert the destination point)

This determination is made in compliance with §§ 14.103-3 and 14.202 of this title.

(3) Inspection at

(Insert the source location(s))

with acceptance at

(Insert the destination point)

This determination is made in compliance with §§ 14.103-2 and 14.202 of this title, wherein the contract provides for delivery FOB destination.

(4) Preliminary inspection at

(Insert the source location)

with final inspection and acceptance at

(Insert the destination point)

This determination is made in compliance with §§ 14.103-2 and 14.202 of this title. This option is used, for example, where the contractor furnishes supplies requiring source inspection and also performs work, such as installation, at destination which requires further inspection prior to acceptance. The inspection at source shall be complete as to the performance of work required of the contractor at that location and shall not be duplicated at destination.

(b) Where inspection and acceptance involve the joint effort of several activities, such as AMC and ARDC, the option should clearly indicate the responsibility, e.g., Preliminary inspection at

(Contractor's plant)

by AMC, with final inspection and acceptance at

(Destination point)

by ARDC. The office administering the contract will assure that where joint responsibilities are involved administrative instructions are provided to supplement the inspection option as necessary to clearly delineate inspection and acceptance responsibility for all areas of contract performance.

(c) Changes in point of inspection and acceptance will be made by appropriate contract amendment in advance and prior to the time any such order becomes effective.

§ 1014.103-2 Inspection at source.

See § 14.103-2 of this title.

§ 1014.103-3 Inspection at destination.

See § 14.103-3 of this title.

2. Section 1014.103-4 is added as follows:

§ 1014.103-4 Inspection of small purchases (\$2,500 or less).

See § 14.103-4 of this title.

3. Sections 1014.104 and 1014.105 are deleted and the following substituted therefor:

§ 1014.104 Rejection of nonconforming supplies or services.

Whenever rejection is necessary and it appears that the contractor will not be able to correct or replace nonconforming supplies or services within the required delivery schedule, full particulars will be furnished the administrative contracting officer for further action. This also applies where the contractor persists in offering nonconforming supplies for acceptance or fails to provide an acceptable quality control (inspection) system as required by contract.

§ 1014.105 Inspection under subcontracts.

To assure economical inspection consistent with protection of product quality, Government inspection under subcontracts will be conducted normally only on supplies which affect the safety, performance, interchangeability, or reliability of the end item, provided these items cannot be inspected satisfactorily or economically after receipt at the contractor's facility. In determining the need for, and the extent of, this inspection, optimum use will be made of test reports, inspection records, certificates, or other statements of quality furnished by either the contractor or his subcontractor.

The present Subpart B is deleted and the following substituted therefor:

Subpart B—Acceptance

Sec.

- 1014.201 General.
- 1014.201-1 Evidence of delivery under f.o.b. origin contracts.
- 1014.201-2 Confirmation of delivery at destination under f.o.b. origin contracts.
- 1014.202 Point of acceptance.
- 1014.203 Responsibility for acceptance.
- 1014.204 Supplies or services not conforming with contract requirements.

AUTHORITY: §§ 1014.201 to 1014.204 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

§ 1014.201 General.

Acceptance certificates need not be furnished contractors on procurements effected by base procurement activities nor on any procurements which specify inspection and acceptance at destination.

§ 1014.201-1 Evidence of delivery under f.o.b. origin contracts.

See § 14.201-1 of this title.

§ 1014.201-2 Confirmation of delivery at destination under f.o.b. origin contracts.

See § 14.201-2 of this title.

§ 1014.202 Point of acceptance.

Whenever practicable, specifying inspection, delivery, and acceptance at one point will facilitate administration and expedite the closing out of procurement transactions. This fact should be weighed along with other factors in de-

termining the point of inspection, delivery, and acceptance.

§ 1014.203 Responsibility for acceptance.

(a) Certificates or other statements of quality or quantity are proper elements in determining whether supplies or services conform with contract requirements. However, normally these certificates do not eliminate the need for some inspection prior to acceptance. An exception exists for supplies or services of a simple, noncritical standard or commercial nature. These may be accepted without AF inspection at the contractor's plant on the basis of a properly executed certificate from the contractor. This technique of accepting supplies without prior Government inspection is known as "certificate acceptance". It is authorized on the supplies mentioned if the contract calls for acceptance at source and contains the clause in § 1007.4014. Judicious use of this technique allows better utilization of quality control effort on complex and critical supplies.

(b) The activity responsible for inspection and acceptance will authorize certificate acceptance in appropriate cases. That activity will instruct the contractor on information to be entered by him on Inspection and Receiving Reports and the execution of the required contractor certification. On receipt of the contractor certification, the activity exercising the option will accomplish the Government acceptance certification and process documentation for payment.

§ 1014.204 Supplies or services not conforming with contract requirements.

(a) Reasonable judgment will be exercised in determining whether nonconforming materiel should be rejected or can be accepted without adversely affecting quality. Unless otherwise prescribed in the contract, materiel departures are classified as follows to aid in this determination:

(1) **Class I departure (deviation).** Any nonconformance that could, by itself, or by its relation to other components, result in failure or malfunction, involve safety of personnel using or maintaining the item, adversely affect performance, durability, interchangeability, reliability, materially affect weight, or otherwise result in failure of the end product to perform properly its intended function (included are any departures affecting price).

(2) **Class II departure (variation).** Any departure from established standards of workmanship, or other similar standards, in a manner or to a degree which has no significant bearing on the effective use or operation of the item or related components and which does not involve any factors listed under a Class I Departure.

(b) In general, materiel containing Class I Departures cannot be accepted without formal contractual authorization. The manner for obtaining this coverage is usually the same as the procedure for securing authorization for engineering changes. Class II Departures are generally disposed of locally.

PART 1015—CONTRACT COST PRINCIPLES**Subpart A—Applicability**

1. Section 1015.101 is added as follows:

§ 1015.101 Types of contracts.

The term "cost-reimbursement type contract" includes cost-plus-incentive-fee (CPIF) contracts.

2. Section 1015.150 is deleted and the following substituted therefor:

§ 1015.150 Costs suspended and/or disallowed under cost-reimbursement type contracts.

(a) *General policy.* (1) It is AF policy that contractors generally will be notified promptly in writing when costs claimed for reimbursement are suspended tentatively as not being properly supported and disapproved as not being allowable according to contract terms or not reasonably incident or allocable to performance of AF cost-reimbursement type contracts. DD Form 396, "Notice of Costs Suspended and/or Disapproved," will be used. It will not be used to notify contractors of decision of the contracting officer under the Disputes clause of the applicable contracts.

(2) In all cases the ACO should be satisfied that the explanation and reasoning indicated for disapproval is clear and concise.

(b) Where DD Form 396 pertains only to items suspended because of improper, insufficient documentary evidence, or similar condition which may be corrected readily, the ACO may waive conferences with other Government personnel. Within a reasonable time after issuance of a suspension notice, the contractor should submit the explanation, documentation, data, or justifications supporting admissibility of the suspended costs. Where the contractor is operating on funds advanced by the Government or where other circumstances warrant, ACO's will make reasonable efforts to effect prompt resubmission of suspended costs. Where Government advance funds are involved, failure of contractor to resubmit costs may be the basis for requiring contractor to restore to advance fund account an amount equal to suspended costs. Normally, costs suspended will not be converted to disapproved when there is no reason for the conversion other than contractor's failure to resubmit costs. During the contract, mere passage of time does not change the basic reimbursable or nonreimbursable nature of the item in question. A final determination concerning status of all suspended items will be made prior to or at the time completion voucher under the contract or subcontract is submitted.

(c) Costs to be suspended and/or disapproved by DD Form 396 will be agreed upon by ACO and military department auditor to greatest extent possible before issuance. When auditor issues DD Form 396, original and six unnumbered copies will be sent to ACO. If ACO concurs, he will assign Notice Number and distribute (1) original and two copies to contractor, (2) one copy (attached to SF

1034) to General Accounting Office through disbursing officer, (3) one copy (attached to SF 1034A) to disbursing officer, (4) one copy to the auditor, and (5) one copy for his own file. Original and copies designated in (1) and (2) will be signed by ACO and auditor. Other copies will bear stamped or typed signatures. When ACO does not concur, he will state his reasons for nonconcurrence and return one unsigned and unnumbered copy to auditor, after which he will confer with auditor and with Air Force and contractor personnel familiar with items in question. Auditor should be present whenever questions of cost allowability are discussed with contractor. When ACO and auditor do not agree on specific items, based on available information, ACO will include or ask auditor to include those items under costs suspended pending further action at next highest organizational levels to resolve the disagreements.

(d) Upon receipt of reply from contractor, ACO will consult the Government auditor concerning any additional information and justification submitted. If the ACO decides not to withdraw his original determination, he will send contractor a formal statement of findings and decision referring to the Disputes clause of the contract. In addition to other requirements, written findings and decisions will be sent through the appropriate staff judge advocate. If the contractor does not reply within the time prescribed in the DD Form 396, the ACO may presume concurrence in nonallowability of costs involved and, unless further word comes from the contractor, need take no further action.

(e) Some contractors may consider a DD Form 396 disallowance as final and institute an appeal directly from the disallowance. The issuance of a DD Form 396 indicating disapproval of costs is not a decision by the contracting officer with respect to a dispute within the meaning of the Disputes clause of the Government contract. Therefore, although the DD Form 396 sets a time limit for reply, failure to comply with such time limit has no legal effect upon the rights of the parties under that clause. If, after receipt of DD Form 396, the contractor requests in writing an extension of time, the ACO may authorize it by separate letter to the contractor. To reduce likelihood of premature appeals, the contracting officer should be sure the contractor is familiar with this provision whenever a DD Form 396 disapproval is issued.

(f) It is the responsibility of the ACO to maintain a separate file for each cost-reimbursement type contract, containing all DD Forms 396 issued and showing, by notation on the file copies, the dates delivered to the contractor, and on which reply, if any, was received from the contractor. Copies of all replies will be filed together with copies of any formal findings of fact and decision as to costs disallowed and the dates delivered to the contractor. Copies of all replies from the contractor and the ACO's formal findings and decision, as well as any other correspondence with the contrac-

tor, will be furnished the Government auditor.

§§ 1015.152 and 1015.153 [Deletion]

3. Sections 1015.152 and 1015.153 are deleted.

Subpart B—Supply and Research Contracts With Commercial Organizations

1. In § 1015.204, paragraphs (a) to (c) and (e) to (h) are revised; in paragraph (i), the last sentence of subdivision (i) of subparagraph (2) is deleted, and subparagraph (3) is revised; paragraphs (j) to (q) and (s) to (v) are revised; in paragraph (w), subparagraphs (2), (4), and (6) are revised, and paragraph (x) is revised, as follows:

§ 1015.204 Examples of items of allowable costs.

(a)–(c) See § 15.204 (a) to (c) of this title.

(e)–(h) See § 15.204 (e) to (h) of this title.

(i) * * *

(3) Where reimbursement of attorneys' fees is sought in connection with representation of a contractor in suits asserted under the Fair Labor Standards Act (29 U.S.C. 201–219), the procedures set forth in subparagraph (2) of this paragraph will be mandatory rather than permissive and the memorandum concerning such fees will be referred directly to the staff judge advocate of the office having administrative cognizance as heretofore indicated. Although such submission is mandatory, the recommendation of the staff judge advocate concerning such legal fees is advisory only.

(j)–(q) See § 15.204 (j)–(q) of this title.

(s)–(v) See § 15.204 (s)–(v) of this title.

(w) *Traveling expenses.*

(2) Travel expenses incurred in normal course of administration of business and applicable to the entire business are acceptable charges to overhead. Traveling expenses incurred in sales effort should be charged to selling expense.

(4) Public transportation costs will be reimbursed at actual cost unless cost of public accommodations used is considered unreasonable. Mileage or other allowances granted for use of private conveyance should be the subject of special agreement and covered by contract.

(6) *Per diem.* Establishment of a schedule of per diem rates is recommended. Schedule should be consistent with contractor's experience, provided this experience is not unreasonable by comparison with contractors in comparable industries or areas, and provided further that rates are not in excess of those specified herein. Consideration should be given to duration of travel time. Where the employee travels to one

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location and remains for an extended period, per diem allowance should be lower than the per diem allowed for trips of short duration. Expenses of nonexecutive employees should be less than expenses of executives. Present conditions indicate that general range of such daily expenditures varies; in case of chief executives and chief research scientists, from \$12 to \$15 for all types of trips; in case of lesser executives, from \$11 to \$12 for all types of trips; in case of other employees, from \$10 to \$12 for brief trips and from \$8 to \$10 for definite trips (over 30 days). Per diem rate schedules submitted to contracting officers for approval will be consistent with these general ranges. All approvals will be in writing and will specify, either by reference to a written schedule of the contractor or otherwise, the per diem approved as reasonable. General ranges listed above will be reviewed periodically by the Director of Procurement and Production, Hq AMC, and will be subject to upward or downward revisions. In computing per diem for continuous travel of more than 24 hours, the calendar day (midnight to midnight) will be the unit. For fractional parts of a day at start or end of continuous travel, one-fourth of rate for a calendar day will be allowed for each period of 6 hours or fraction thereof. For continuous travel of less than 24 hours, one-fourth of rate for a calendar day will be allowed for each 6-hour period or fraction thereof. However, no per diem will be allowed when departure is after 8:00 a.m. and return on same day is before 6:00 p.m. No per diem will be paid for periods charged to vacation or sick leave.

* * * * *

(x) See § 15.204(x) of this title.

2. In § 1015.205, paragraphs (a)-(j) and (l)-(r) are revised as follows:

§ 1015.205 Examples of items of unallowable costs.

(a)-(j) See § 15.205 (a)-(j) of this title.

(k) * * *

(l)-(r) See § 15.205 (l)-(r) of this title.

Subpart E—Subjects Affecting Cost Which May Require Special Consideration

1. Section 1015.501 is added as follows:

§ 1015.501 Consideration required.

(a)-(b) See § 15.501 (a)-(b) of this title.

(c) *Commercial agreements.* (1) This paragraph relates to those agreements between United States firms and foreign AF contractors and subcontractors under which the domestic firm furnished patent rights, data, know-how, and technical assistance to assist the foreign firm, as a second source, to manufacture for the Air Force particular articles or components thereof. Such agreements sometimes provide for an overall charge, frequently referred to as a royalty, or license fee, or both. Failure to differentiate in such agreements between the

amount of charge for: (i) Patent licenses, (ii) furnishing technical assistance, (iii) proprietary information and know-how, or (iv) the price, if any, for setting up the second source, renders it difficult or impossible to evaluate reasonableness of charge, when such charge is included in the foreign firm's price to the Government. When charges of this type are involved in negotiating contract prices, including price redetermination, or in determining allowability of cost in cost-type contracts, contracting officer will require a breakdown of charges by category and in sufficient detail to permit evaluation. The cost and price analysis data required of the contractor or patent rights, proprietary information, know-how, technical assistance, and setting up of second source has been exempted from Bureau of the Budget approval by Hq USAF (AFASC-IE). All personnel will be guided by the outline in subparagraph (2) of this paragraph.

(2) Contracting officer will require domestic contractor to: (i) State whether or not the U.S. Government is licensed or has been granted other rights by the contractor regarding any inventions, patents, or data; indicate the nature and extent of the Government's rights; and expressly recite that the rights transferred by the agreement are subject to the existing rights to the U.S. Government. The statement of inventions and patent rights transfers required of the contractor has been declared exempt from Bureau of the Budget approval by Hq USAF (AFASC-IE). (ii) Provide that the contractor's assignee or licensee under the agreement shall charge no royalties or license fees for the production or use, in the performance of a contract with the U.S. Government or a subcontract of any tier under a Government contract or work done for a foreign country which is paid for in whole or in part with funds furnished to or on behalf of such foreign country by the U.S. Government, of any invention or data as to which the U.S. Government has the right to produce and use and have produced and used by others, without obligation for payment for such production and use. (iii) Segregate from each other, and from the payments made or to be made to the contractor for the technical assistance furnished or to be furnished under the agreement, the payments made or to be made thereunder to the contractor as "royalties" or "licensee fees," and (iv) waive payment to it of any royalties or licensee fees in connection with any inventions or data to which the provisions of subdivision (ii) of this subparagraph are applicable. If any such royalties and license fees are collected and paid to the contractor by the contractor's licensee or assignee under the agreement, through inadvertence or otherwise, the contractor shall, promptly after notice of the applicability of the aforesaid subdivision (ii) to such royalties or license fees refund such payments to the Chief, Patents Division, Office of the Judge Advocate General,

USAF, by check payable to the Treasurer, United States of America.

2. Section 1015.502 is deleted and the following substituted therefor:

§ 1015.502 Examples of subjects requiring special consideration.

(a)-(e) See § 15.502 (a)-(e) of this title.

(f) *Liability to third persons.* (1) Contract clauses containing indemnity or hold harmless provisions which do not conform with standard provisions set forth in ASPR or AFPI will not be used in prime contracts without submitting such clauses for prior opinion of the cognizant staff judge advocate, coordination of the insurance contracting officer of the Pricing and Financial Division (MCPF), Hq AMC, and approval of the Office of the Procurement Committee (MCP), Hq AMC.

(2) Approvals will not be given to contractor's agreements incurring or settling damages resulting from third party liability without obtaining a prior opinion of the cognizant staff judge advocate as to the legality and propriety of such agreements. Vouchers submitted for the payment of such costs, where there appears to be any questions of law, will not be approved prior to obtaining an opinion from the cognizant staff judge advocate as to the legality of the proposed charges.

(3) Any recommendations of the staff judge advocate are advisory and not binding on contracting officer with respect to factual determinations.

(g)-(i) See § 15.502 (g)-(i) of this title.

(j) *Personnel movements of special or mass nature.* (1) Where personnel move at convenience of the Air Force or as necessary to the performance of a contract, costs incident thereto are acceptable when provided for in the contract. Allowability of costs should be considered in light of any benefits to contractor as a result of such moves. When allowable, reasonable patterns, including per diem rates, should be established by agreement with contractor. Subject to limitations of paying only actual costs or per diem rates approved by the administrative contracting officer, following schedule will guide contracting officers.

(2) Reimbursement for relocation of executive, technical and key personnel should be limited to: actual cost of moving employee and his family residing at his domicile; actual cost of moving household goods, not to exceed 8,000 pounds; per diem allowance of \$10 per day for number of days (not to exceed a maximum of 30 days, including travel time) taken to relocate married employees or single employees maintaining a household (for employees assigned to AF test centers, per diem maximum is 60 days, including travel time); per diem allowance of \$6 per day for transfer of employee's wife or one adult dependent, not to exceed 30 days, including travel; per diem allowance of \$10 per day for actual number of days (not to exceed 15 days, including travel time) taken

to relocate, in new quarters, single employees not maintaining a household and newly hired employees; and per diem allowance of \$2.50 per day for actual number of days (not to exceed 30 days, including travel time) taken to relocate employee's minor dependents residing with employee.

(3) This pattern does not apply to employees not qualified as executive, technical, or key personnel. It is not an incentive for moving and any plan approved should include certification by contractor that total amount of reimbursement sought by each employee will have been expended in relocation and evidenced by receipts for expenditures or per diem allowance. Question of reimbursement of regular salaried or hourly rated employees for "time off" during relocation ordinarily will be considered when approving salary or wage rates.

(k) See § 15.502(k) of this title.

(l) *Rearrangement or relocation of facilities or plant sites.* Reconversion costs are those incurred in restoration of facilities to approximately the same physical arrangement and condition they were in immediately prior to the beginning of defense work and include cost of removal of Government property. These costs, except for the removal of Government property, are incurred for benefit of future production and should be charged against such production. Except for costs of removing Government property and restoration and rehabilitation costs caused by such removal and specifically provided for in the contract, reconversion costs are not allowable.

(m)-(t) See § 15.502(m) to (t) of this title.

(u) *Wages or salaries of partners or sole proprietors.* (1) Wages and salaries of partners or sole proprietors are amounts relating to actual services rendered to an unincorporated business by partners or sole proprietor. Partners' salaries may be essentially a device intended to provide equitable treatment of partners who are furnishing capital and service to the firm to a varying degree. In no event should compensation to a partner or sole proprietor, which is determined to be an allowable item of cost, include any amount representing profit or interest on invested capital.

(2) Charge for services to enterprise as a whole must be reasonable after considering nature and extent of services rendered, general level of compensation of persons performing similar duties in organizations of similar size and nature, and amount of charges during periods prior to assumption of Government contracts.

(3) Partners' and sole proprietors' salaries are usually charged through overhead. Charges made directly to contract should be acceptable only when services rendered are of a direct labor nature and are specifically authorized by terms of the contract. When such charges are considered to be direct, overhead usually will not be applied.

(4) When personal services of partners and sole proprietors are essential features of performance under contracts, reasonableness of overall compensation, including fee, must be considered.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1016—PROCUREMENT FORMS

Subpart A—Forms for Advertised Supply Contracts

Section 1016.101-1 is added as follows:

§ 1016.101-1 General.

See § 16.101-1 of this title.

Subpart B—Forms for Negotiated Procurement

1. Sections 1016.200 and 1016.201 are revised as follows:

§ 1016.200 Scope of subpart.

See § 16.200 of this title; also see Subpart C of this part.

§ 1016.201 Request for quotation (DD Form 747).

2. Sections 1016.201-1 and 1016.201-2 are added as follows:

§ 1016.201-1 General.

See § 16.201-1 of this title.

§ 1016.201-2 Conditions for use.

See § 16.201-2 of this title.

3. Section 1016.203 is deleted and the following substituted therefor:

§ 1016.203 Request for proposals, amendment to request for proposals, proposal and acceptance. (DD Forms 746, 746s, 746-1, 746-2).

See § 16.203 of this title.

4. Sections 1016.206-50 and 1016.206-51 are added as follows:

§ 1016.206-50 Motion picture procurement cost estimate. (ASC Form 24).

May be used by ASC in lieu of DD Form 633 to secure price and cost data on motion picture procurements.

§ 1016.206-51 Cost and price analysis. (BMC Form 23).

May be used by BMC in lieu of DD Form 633 to secure price and cost data on ballistic missile procurements.

5. Section 1016.207 is revised as follows:

§ 1016.207 Cost and price analysis for contract price redetermination (DD Form 784).

6. Sections 1016.207-1, 1016.207-2 and 1016.207-3 are added as follows:

§ 1016.207-1 General.

See § 16.207-1 of this title.

§ 1016.207-2 Conditions for use.

See § 16.207-2 of this title.

§ 1016.207-3 Forms superseded.

See § 16.207-3 of this title.

Subpart C—Purchase and Delivery Order Forms

In § 1016.303-2, subparagraph (4) of paragraph (b) is added as follows:

§ 1016.303-2 Conditions for use.

(b) * * *

(4) The delivery schedule will be stated in terms of specific dates on or before which delivery will be made (e.g., Item 1 is to be delivered on or before November 1, 1959). These specific dates will make allowances for the approximate number of days required for distribution and the time required for receipt by the contractor of DD Form 1155.

Subpart D—Construction Contract Forms

1. The title of Subpart D is amended to read as set forth above.

2. Sections 1016.401 to 1016.451-1 are added as follows:

§ 1016.401 Standard Forms 20, 21, 22, 23, and 23A.

§ 1016.401-1 General.

See § 16.401-1 of this title.

§ 1016.401-2 Conditions for use.

All formally advertised construction contracts and all negotiated construction contracts, except those executed on AFPI Forms of the 79 series (see § 1016.450) and those executed by foreign procurement activities (see § 1007.4206 of this chapter) entered into on a fixed-price basis will consist of the following:

(a) *Standard Form 23, "Construction Contract" (revised March 1953).* See § 16.401-1 of this title. Foreign procurement activities see § 1007.4206 of this chapter.

(b) *Standard Form 23A, "General Provisions (construction contracts)" (revised March 1953).* See § 16.401-1 of this title.

(c) *Additional general provisions (construction contract).* See § 1007.3103 of this chapter.

(d) *Special provisions (construction contract).* See § 1007.3106 of this chapter.

(e) Such additional schedules and/or clauses as may be prescribed in Subparts EE and PP, Part 1007 of this chapter or necessary to form a complete contract.

§ 1016.450 AFPI Forms of 79 series, "Construction Contract" (Negotiated-firm fixed price).

§ 1016.450-1 General.

AFPI Forms of the 79 series are simplified negotiated construction contract forms designed for use in purchasing low dollar value "lump sum" construction services within the United States, its Territories and possessions.

§ 1016.450-2 Conditions for use.

AFPI Forms of the 79 series may be used when:

(a) The transaction is not in excess of \$2,000.

(b) Only one payment will be made for the services performed.

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(c) A determination has been made that the more formal contract forms and procedures of § 16.401 of this title and § 1016.401 of this chapter are not required to insure proper administration and accomplishment of the services required.

(d) No additional contract provisions are required for the proper administration of the contract.

§ 1016.450-4 "Contractor's acceptance."

The enactment of Public Law 85-800, increasing authority to negotiate under 10 U.S.C. 2304(a)(3) to \$2,500, eliminated the requirement for contractor's acceptance within the dollar limitation of AFPI Form 79. However, contractor's acceptance may be obtained if the contracting officer determines it is in the best interest of the Government to have a binding contract.

§ 1016.451 Auxiliary forms.

§ 1016.451-1 Preconstruction conference checklist (AFPI Form 27).

See § 1012.404 of this chapter. The Preconstruction Conference Checklist sets forth important factors to be discussed with contractors at the preconstruction conference held after the award of construction contracts. AFPI Form 27 will be:

(a) Used as a guide for discussing pertinent factors regarding the performance of construction contracts administered by base procurement contracting officers at installations located within the United States, including Hawaii.

(b) Signed in the space provided by other Government or civilian personnel attending.

(c) Checked by the contracting officer in the appropriate space after each subject is discussed.

(d) Dated and signed by the contractor in the space provided at the bottom of the form to indicate that he has been thoroughly briefed on all subjects mentioned.

(e) Filed after completion in the appropriate contract file.

(f) Available as a reproducible offset master. Local reproduction of cut sheet forms for fill-in purposes from the offset master is authorized after appropriate additional items have been listed in Section IV of the reproducible master. Requisitioning will be limited to two offset masters per procurement activity.

§ 1016.451-2 [Amendment]

3. In § 1016.451-2(a), "Special Provision 1-607" is amended to read: "Special Provision 1-07."

4. Section 1016.451-3 is added as follows:

§ 1016.451-3 Labor law compliance check sheet (AFPI Form 7).

(a) *Purpose.* AFPI Form 7 is an aid in construction contract administration to determine contractor compliance with the Labor Law provisions contained in the contract.

(b) *Use of form.* The use of AFPI Form 7 is mandatory when administering AF construction contracts containing the Labor Law provision as set forth in Part 12 of this title and Part 1012 of

this chapter. It will be used to accomplish the routine checks for compliance and field checks.

(c) *Preparation of form.* One or more copies of this form will be prepared for each field check or site visit performed.

(1) The person responsible for performing field checks will insert the contract and project identification data at the top of the form.

(2) The "Site Visit Data" section and that portion of the "Contractor Employee Interview Data" section above the interviewer's initial block will be prepared during the site visit.

(3) The bottom portion of the "Contractor Employee Interview Data" section which precedes the payroll examiner's initial block will be prepared by the payroll administration clerk when the form is returned to the contracting office.

(4) Both the interviewer and the payroll examiner will sign, in the appropriate spaces, on the reverse side of the form.

Subpart H—Miscellaneous Forms

1. Sections 1016.814-1 and 1016.814-2 are revised, as follows:

§ 1016.814-1 Architect-engineer experience data (DD Form 1071).

DD Form 1071 replaces AF Form 194.

§ 1016.814-2 Construction contractor experience data (DD Form 1072).

DD Form 1072 will be used whenever it is necessary or desirable to secure experience and organizational data from construction contractors. For example, a construction contractor who desires to be placed on the list of bidders for construction contracts would be required to complete and submit DD Form 1072. DD Form 1072 is available in cut sheets only.

2. Sections 1016.853 and 1016.854 are added as follows:

§ 1016.853 Supplemental agreement forms (AFPI Forms 12, 12A, and 12B).

§ 1016.853-1 Definition.

See § 1.201-21 of this title.

§ 1016.853-2 Instructions for use.

Principal Purchasing Offices, Foreign Central Procurement Activities and ARDC will make the required entries according to instructions in Subpart D, Part 1053 of this chapter. In addition to entering the date indicated by the preprinted blocks preceding the recital block, the following provisions and agreements will be used by all AF procurement activities in all supplemental agreements:

(a) *Introducing recital.* The first sentence of the preprinted introductory recital is as follows: "This Supplemental Agreement is entered into pursuant to Authority of 10 U.S.C. 2304(a)()." If a part of the subject of the supplemental agreement is based on a term of the basic contract, e.g., a change in specification, add the following to the above sentence: "and provision _____ of the Basic Contract." If the whole subject of the supplemental agreement is based

on a term of the contract, delete from the above sentence "Authority of 10 U.S.C. 2304 (a)()" and substitute "provision _____ of the Basic Contract."

(b) *Substantive recitals.* The last sentence of the preprinted introductory recital is as follows: "Said contract is amended and supplemented as follows." After this sentence, insert in separate, numbered paragraphs each of the new provisions the supplemental agreement adds, and each change which is being made in the basic contract. Each such paragraph will commence with such words as "By deleting," "By inserting," "By changing," "By adding," or a like phrase. Where the space provided on the form is insufficient for insertion of all recitals, an additional page(s) may be attached as a continuation sheet(s) and referenced in this space as follows: "Sheet(s) numbered _____ is/are attached hereto and made a part of this agreement." Blank paper or offset masters will be used for preparing continuation sheets. Locally designed forms will not be established for this purpose.

(c) *Supplemental agreements with corporations.* In the case of corporations, a corporate certificate or seal will not be required.

(d) *Approval of supplemental agreement.* Whenever a supplemental agreement requires manual approval other than by the contracting officer prior to becoming effective, insert the clause set forth in § 7.105-2 of this title.

(e) *General.* Any clause not contained in the basic contract which is required or applicable to a supplemental agreement will be inserted in the supplemental agreement. Any clause not contained in the basic contract, which is authorized by ASPR or this Instruction, may be inserted in the supplemental agreement when considered applicable.

§ 1016.854 Change order forms (AFPI Forms 13, 13A, and 13B).

§ 1016.854-1 Definition.

See § 1.201-22 of this title.

§ 1016.854-2 Instructions for use.

Principal purchasing offices, foreign central procurement activities, and ARDC will make the required entries. All other AF procurement activities will enter the information indicated in the preprinted blocks.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1052—PRE-AWARD SURVEYS

Subpart A—Requirements and Procedures for Facility Capability Reports

1. In § 1052.104, a new paragraph (f) is added as follows:

§ 1052.104 General requirements for obtaining an FCR.

(f) The request for FCR's will include the reason for such request when the proposed contract is estimated to be under \$20,000 or when normally exempt by paragraph (c) of this section.

2. In § 1052.105, subparagraph (1) of paragraph (b) is revised as follows:

§ 1052.105 Exemptions and waivers.

(b) **Waivers.** (1) For procurements other than those set forth in paragraph (a) of this section, the FCR requirement may be waived in individual cases, except when the bidder is on the AMC Experience List, by the commander of a major air command, the AMC Ballistic Missiles Center, the AMC Aeronautical Systems Center, an AMA or an AFD at which the procurement is made. The appropriate commander may further authorize one of the following as applicable to waive the FCR requirement:

- (i) Director of Procurement and Production.
- (ii) Director of Logistics Support (ASC).
- (iii) Director of Production (BMC).
- (iv) Head of purchasing office (§ 1001.201-64 of this chapter).

The FCR requirement for bidders on the AMC Experience List may be waived by the Commander, AMC ASC, AMC BMC, an AMA or AFD, or major air command after coordination with MCPI, Hq AMC.

Subpart D—Management of the FCR

1. In § 1052.402-6, paragraphs (f) and (g) are revised as follows:

§ 1052.402-6 Plant survey arrangements.

(f) Maintenance engineering standards and processes differ from those used in the manufacture of new equipment. Therefore, determining a contractor's technical capability for adequate performance of certain maintenance and modification contracts may involve inspection and evaluation of work specifications which require the technical assistance of qualified maintenance engineering personnel. If the request for FCR is for a proposed award of a contract for maintenance and modification of aircraft, engines, or other complex equipment, the activity conducting the FCR will request maintenance technical assistance in the conduct of the FCR from the logistic support manager (LSM), engine manager (EM), armament systems manager (ASM), or commodity class manager (CCM) responsible for the equipment.

(g) When spare parts and/or ground support equipment requirements to initially support the end article are included in the contract proposal data, inspection and survey may be required to determine the contractor's capability for adequate performance of the initial provisioning procedures, terms, and delivery requirements as prescribed in appropriate contractual provisioning documents. (See § 1055.206 of this chapter.) For proposed contractors who become involved in initial provisioning for the first time or when the proposed contractor's past performance has not been satisfactory from the standpoint of provisioning, an inspection and survey will be required. The FCR monitor at the activity conducting the FCR will request provisioning specialist, if necessary from the appropriate LSM, EM, ASM, or CCM.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1053—CONTRACTS; GENERAL

Subpart A—Miscellaneous Requirements

1. In § 1053.101-1, paragraphs (a) and (b) are deleted and the following substituted therefor:

§ 1053.101-1 Applicability of subpart.

(a) Contracts resulting from formally advertised procurements.

(b) Fixed price contracts if: The contract is not subject to price redetermination, or the contract does not incorporate incentive provisions.

2. In § 1053.101-5, subparagraph (2) of paragraph (a) is revised as follows:

§ 1053.101-5 Implementation.

(a) * * *

(2) A description by which each item can be readily identified (ordinarily name and number of item), a statement as to which of the criteria is considered applicable; the prospective contractor's recommendation to make or buy the item or defer the decision; an adequate justification of the recommendation, and names of proposed subcontractors when feasible.

The title of Subpart R is revised as follows:

Subpart R—Preparation and Use of Certain Kinds of Base Procurement Contracts

1. In § 1053.1802, a paragraph (b) is added as follows:

§ 1053.1802 Contracts for care of remains of deceased Government personnel.

(b) *Instructions for preparation of contracts—(1) Payment for care of deceased personnel.* (i) Payment will be effected from funds available for care and disposition of deceased personnel.

(ii) Payments for the care of deceased Air Force and Army personnel and such other Government employees and/or persons as are authorized services under the contract, will be made by the finance officer of the using activity, the requirement of which resulted in a call for services or supplies under the contract. Invoices will be submitted to the appropriate finance officer as directed by the contracting officer. For aerial port contracts only, the provisions of this subdivision will include services rendered for remains of those individuals authorized mortuary service on a reimbursable basis providing the sponsor elected to use the aerial port contract services and reimbursement has been properly effected in the overseas command for all costs involved. A statement to this effect should be included in all invitations for bids for aerial port requirements.

(iii) When deceased Navy personnel are cared for under the contract, invoices will be submitted to the contract-

ing officer who will indorse the invoice on the reverse side to the effect that services have been satisfactorily rendered, if a fact, and send it to the Department of the Navy, Bureau of Medicine and Surgery, Code 214, Washington 25, D.C.

(2) The following insertions will be made on the Standard Form 33:

(i) In the introductory paragraph, following the words "for delivery FOB," insert the words "destination as provided in the attached Schedule (Part I) and Specifications (Part III)."

(ii) In the schedule on the Standard Form 33, under the heading "Supplies or Services," insert the following:

The contract resulting from this invitation shall consist of Standard Form 33 and Clauses 1 through 10 comprising the terms and conditions of the invitation for bids: Schedule (Part I); General Provisions (Part II); and Specifications (Part III). The services and supplies to be furnished are set forth in the Schedule (Part I) and bid prices will be entered thereon. No additional items will be inserted by the bidder.

(3) "Contract Period" and "Using Activities" will be entered in the spaces provided in the schedule (part I) before invitations for bids are issued.

(4) Clauses and specifications for contracts for care of remains are contained in Subpart JJ, Part 1007 of this chapter.

2. In § 1053.1803, a new subdivision (ii) is added to paragraph (b) (2), and former subdivisions (ii) and (iii) are redesignated (iii) and (iv), as follows:

§ 1053.1803 Department of Defense commercial warehousing and related services for household goods of military personnel.

(b) *General.* * * *

(2) * * *

(ii) Completed DD Form 1099, "Application for Non-Temporary Storage of Household Goods."

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314 70A Stat. 127-133; 10 U.S.C. 2301-2314)

Subpart S—[Reserved]

A new Subpart T is added as follows:

Subpart T—Family Housing Projects

Sec.

- 1053.2000 Scope of subpart.
- 1053.2001 Authority and policy.
- 1053.2002 Responsibilities of contracting officers.
- 1053.2003 Commitment of funds for support and improvement of family housing.

AUTHORITY: §§ 1053.2000 to 1053.2003 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

Subpart T—Family Housing Projects

§ 1053.2000 Scope of subpart.

This subpart sets forth policy guidance and responsibilities with respect to Family Housing Projects under Title VIII of the National Housing Act, as amended by Title IV, "Armed Services Housing Mortgage Insurance," Public Law 345 (84th Congress).

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§ 1053.2001 Authority and policy.

Memorandum for the Secretary of the Air Force, October 14, 1955, approved by the Deputy Special Assistant for Installations, as amended, is quoted in this section to provide basic uniform policy guidance in contracting under Title VIII of the National Housing Act as amended.

Subject: Administrative Procedures to Expedite "Closing" Title VIII Housing Projects

1. Pursuant to discussion held in the Office of the Deputy Special Assistant for Installations, October 5, between the General Counsel, representatives from the Directorates of Procurement and Production and Facilities Support, the following memorandum outlining recommended procedures for closing Title VIII projects is submitted for your approval.

2. This memorandum is confined to the contractual processes and actions essential to the selection of an acceptable mortgagor-builder and production of the complete projects. It is noted that many of the procedures and actions described are similar to those that have been necessary under the "old" Wherry Act. This memorandum does not detail other actions performed prior to the contractual stage, except as such matters may directly relate to these procedures.

a. The Contracting Officer will be directed by the Housing Construction Division, DCS/O, to advertise the project in accordance with the approved procedures being developed for this type of project by the Defense Department including the Invitation for Bid, forms for contract, guarantees and related legal papers.

b. After the period for advertising has expired, normally thirty days after issuance of Invitation for Bid, the Contracting Officer will conduct a formal opening of bids. He shall notify, at the time of issuance of the Invitation for Bid, the major command and the Housing Construction Division DCS/O, as to the date, time and place for the opening of bids. This Headquarters and the command concerned will notify the Contracting Officer as to the representation to be present at the bid opening.

c. The Contracting Officer's specific duties concerning the opening of bids will include:

(1) After opening all bids, he will arrange them in order; from the lowest to the highest bid, and will inform those present that the awarding of the bid will depend upon acceptance of the proposal of the low bidder by the FHA and Department of the Air Force as "the lowest acceptable bid" and that a Letter of Acceptability will be issued by the Secretary of the Air Force to the lowest acceptable bidder. He may inform such apparent low bidder that a decision will be made at the earliest practicable date and not later than thirty days subsequent to the opening.

(2) The list of bids, together with a copy of each bid including the financial statements and other related information, will be immediately handcarried to the field office of FHA by the Contracting Officer or his representative, with a request that the FHA indicate whether or not the low bidder is acceptable for the issuance of a commitment and, if not, to indicate whether or not each next successive low bidder is acceptable.

(3) He shall immediately transmit the resultant information to the Housing Construction Division, DCS/O, in Washington, D.C.

d. Immediately upon approval of the low bidder by the FHA, Washington and the Secretary of the Air Force, the Office of the Secretary will issue directly a Letter of Acceptability to the accepted bidder and will furnish copies to the Contracting Officer, the command, FHA in Washington and the FHA field office. This letter will contain detailed instructions as to actions to be taken

by the acceptable bidder in consummating the closing action between the Air Force and such corporation as he will be required to create to enable him to start construction.

e. Immediately after receipt of the copy of Letter of Acceptability, the Contracting Officer will present certain legal documents such as the Housing Contract, lease and other documents to the accepted bidder for the purpose of securing his official signature as directed in the Letter of Acceptability. The Contracting Officer will transmit these signed documents directly to the Housing Construction Division, DCS/O, for review, approval and signature by the Secretary of the Air Force.

f. The Housing Construction Division, DCS/O, during the period following receipt of such documents, will work directly with the eligible bidder, his attorney, the FHA field office and others who may be required to assist in finalizing closing papers.

g. The Housing Construction Division, DCS/O, is responsible for preparation and securing proper execution of all legal papers requiring approval within the Department of Defense, the Air Force and the FHA.

h. The date, time and place for formal closing will be arranged by the Housing Construction Division, DCS/O, with the mortgagor, mortgagee, FHA, the Contracting Officer and other interested Parties.

1. After the closing and commencement of construction, the Contracting Officer will act as the contract administrator for the Air Force, including direct supervision of the personnel accomplishing construction inspection. Contract administration policies, procedures and practices covered by the Armed Services Procurement Regulation and the Air Force Procurement Instructions, as well as established procurement contract administration channels, are applicable to Title VIII (Capehart) housing contracts, except in those areas where a different procedure is specified in the Title VIII (Capehart) housing contract documents or special instructions have been issued by Headquarters USAF. Any such instructions will be coordinated with the proper Procurement and Civil Engineering officials, Headquarters USAF.

1. Matters of dispute or matters requiring decision not considered within the authority of the contracting officer will be referred by him through procurement channels as established by Air Force Procurement Instructions unless a different procedure has been specifically established by Title VIII (Capehart) housing contract documents or a specific instruction has been issued by Headquarters USAF.

k. The Contracting Officer shall keep this Headquarters advised of the progress of construction through the media of the AF Form 422 (AF-K-5) Report. He will make arrangements for a meeting of representatives from the Housing Construction Division, DCS/O, FHA field office and mortgagee for the formal transfer and acceptance of the project and passage of the corporate stock, etc., from the mortgagor corporation to the representative of the Secretary of the Air Force. It will be the responsibility of the Housing Construction Division, DCS/O, to obtain concurrence of the Air Force Comptroller so that mortgage payments may then be made directly to the mortgagee in accordance with the contract documents.

§ 1053.2002 Responsibilities of contracting officers.

(a) In connection with construction of "Family Housing" under Public Law 345 for which the Air Force is its own construction agency, the contracting officer is responsible for the administration of the contract, for certifying partial payments, and for certifying final payment upon completion.

(1) It is realized that the contracting officer does not have on his staff the technical personnel needed to perform the inspections, prepare, review, and approve partial payment estimates, and conduct final acceptance inspections, which must be accomplished to insure compliance with the terms of the contract, and to adequately protect the Government's interest. Accordingly, Title II services of Architect-Engineers are being provided for in Architect-Engineers (AE) contracts to provide the necessary technical personnel. The size of the inspection force considered necessary for each project, as well as a price estimated to be fair for these services, are furnished as guidance from HQ USAF, either in design directives or in separate letters. In addition, the contracting officer should rely on the installations engineer and his staff for guidance in the technical management of the architect-engineer's service and for the inspection of the project. Guidance from HQ USAF as to the size of the inspection force should not be considered as binding and the contracting officer should, after consultation with the installations engineer, make revisions as necessary in the AE contract for inspection to insure that the interests of the Government are adequately protected.

(2) The contracting officer should make full use of the installations engineer and his staff to assist in fulfilling his responsibility in administering the contract.

(3) Additional technical assistance will be furnished through periodic supervisory staff visits by qualified technical personnel from HQ USAF and the commands.

§ 1053.2003 Commitment of funds for support and improvement of family housing.

Contracting officers may issue IFB's or RFP's without a prior reservation of funds (commitment) for support and improvement of family housing (includes such work as rehabilitation of Wherry units and off-site projects) upon direction of the Director of Installation, HQ USAF.

PART 1054—CONTRACT ADMINISTRATION**Subpart R—Renegotiation Board Inquiries**

1. Section 1054.1803 is deleted and the following substituted therefor:

§ 1054.1803 Procedure.

(a) Procurement and contract performance information will be obtained by the Renegotiation Board directly from the source of information within the Air Force, i.e., the AFD or AFPRO and from the applicable HQ ARDC or other major commands, reserving the privilege, however, of contacting the AMAs having contract administration responsibility or HQ AMC whenever deemed necessary to insure receipt by the Board of the best performance information available. The monitor will maintain necessary surveillance to in-

sure receipt of adequate information by the Renegotiation Board.

(b) Information requested concerning a contractor should not be obtained from the representatives or personnel of that contractor. Information requested concerning subcontractors should be collected from sources within the Air Force to the extent available. When appropriate, information may be obtained from the subcontractor's customers.

(c) The checklists of questions set forth in § 1054.1805 will be used as guides in furnishing requested information to the Renegotiation Board. These checklists are the same as those contained in "A Guide Book for Reporting Performance Information," issued by the Renegotiation Board in July 1952, as supplemented by Appendixes C & D.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1057—REPORTS

Subpart A—Procurement Action Reports

1. In § 1057.102, paragraphs (a), (b), (l), (k), (m), and (n), introductory paragraph of paragraph (o), and paragraph (p) are revised; the undesignated paragraph following paragraph (o) (4) and subparagraphs (1), (2), and (3) thereunder and paragraph (q) are deleted.

§ 1057.102 Definitions.

(a) "Procurement Action" is the term used in this report to refer to any contractual action to obtain supplies, services, or construction which obligates or deobligates funds.

(1) The term includes: preliminary contractual instruments such as letter contracts, definitive contracts (including notices of award), purchase orders, job orders, task orders, delivery orders, and any other orders against existing contracts, including debit and credit actions that modify a contract, such as amendments, change orders, supplemental agreements, cancellations, and terminations. The term also includes provisioning order obligating documents (POOD's), contingency orders, and contract change notifications.

(2) The term does not include contracts which do not obligate a firm total dollar amount or do not name a fixed quantity, such as indefinite delivery type contracts (orders or calls placed against such contracts, however, are to be reported as procurement actions); requisitions and other means of transferring supplies or services within or between the military departments or the procurement agencies of the Department of Defense.

(b) "Qualified Products" is an item on a Qualified Products List or approved for inclusion in a Qualified Products List according to Subpart E, Part 2 of this title.

(i) "Major Disaster Area" is an area so designated by the President or Federal Civil Defense Administrator under the provisions of Public Law 875, 81st Congress, as amended (42 U.S.C. 1855(b)),

and as implemented by Defense Mobilization Order VII—7, Supplement 1.

(k) "Small Business Concern" is a concern that is not dominant in its field of operation and, with its affiliates, employs fewer than 500 employees, or is certified as a small business concern by the Small Business Administration. (See § 1.701-1 of this title.)

(m) "Small Business Set-Aside" designates a method of procurement whereby either the total amount or a portion of a requirement is withheld from general solicitation and is reserved exclusively for small business firms. These procurements are considered "negotiated" regardless of whether the contract is awarded by negotiation or by formal advertising procedures. The set-asides may be agreed to jointly by the Small Business Administration representative and the procuring contracting officer (PCO), or may be determined unilaterally by the PCO. (Subpart G, Part I of this title.)

(n) "Type of Contract" is defined and explained in detail in Subpart D, Part 3 of this title.

(o) "Modifications Made Pursuant to Terms of Existing Contract." For the purpose of this Instruction such modifications include but are not limited to:

(p) The term "modification made pursuant to terms of existing contract" for the purpose of this Instruction, does not include:

(1) Supplemental Agreements, or contract amendments issued pursuant to contractual provisions relating to increase-decrease quantity options or extras (these will be reported as new procurement).

(2) Supplemental Agreements or contract amendments for concurrent spares or other accessory equipment not originally provided for in the contract (these will be reported as new procurement).

(3) Orders (which obligate funds) against contracts or agreements upon which funds were not obligated. If such orders are placed against an activity's own contract such actions will be reported in Item 15 as (3) advertised or (5) negotiated, DD Form 350, depending upon the method of purchase involved in the placement of the basic contract. Orders against other than an activity's own contract will be reported in Item 15 as (1) Intra-governmental. (See paragraph (e) of this section.)

§ 1057.103 [Deletion]

2. Section 1057.103 is deleted.
3. A new Subpart L is added as follows:

Subpart L—Contractor Estimate of Provisioning Fund Requirements

Sec.

1057.1200 Scope of subpart.

1057.1201 Applicability of subpart.

1057.1202 Responsibilities.

1057.1203 Preparation of AFPI Form 73.

1057.1204 BOB approval.

AUTHORITY: §§ 1057.1200 to 1057.1204 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

§ 1057.1200 Scope of subpart.

This subpart establishes a uniform reporting system for contractor estimates of AF and MAP funds required for provisioning actions on production contracts.

§ 1057.1201 Applicability of subpart.

(a) The provisions of this subpart are applicable to all Directorates of Logistic Support Management (DLSM's) having provisioning monitorship over AF and MAP contracts and over AF and MAP equities in contracts of other Departments and to all activities having administrative responsibilities for such contracts.

(b) Reports will be submitted on active production contracts containing AF or MAP funds for the provisioning of spares, spare parts, and ground support equipment, upon determination of needs and on an "as called for" basis only, not to exceed one report per month.

(c) The Directorate of Logistic Support Management (DLSM) having provisioning monitorship over the contract may call for reporting on contracts, provided both of the following conditions exist:

(1) Items of provisioned spares, spare parts, tools, test equipment, and ground support equipment on the contract total more than \$100,000.

(2) It will take more than 120 days from date of contract to completely define all the item requirements.

§ 1057.1202 Responsibilities.

(a) The DLSM requiring the report will:

(1) Initiate AFPI Form 73, "Report of Provisioning Fund Requirements," according to § 1057.1203 (a)-(i) and forward it to reach the ACO no later than the 25th calendar day of the month the report is to cover.

(2) Initiate AFPI Form 73 in a sufficient number of copies to provide one copy for the ACO, one copy for the contractor and to afford distribution to project/program officers who will require the data to accomplish necessary management of the individual funds projects/programs involved.

(b) The ACO will assure completion of the report and will be responsible for effecting distribution.

§ 1057.1203 Preparation of AFPI Form 73.

(a) *Data requested by.* The initiator will enter his complete mailing address including organizational code.

(b) *As of date.* This will be the last calendar day of the month covering the report.

(c) *Federal Supply Classification (FSC).* This will be the FSC which has provisioning monitorship of the contract being reported.

(d) *End article (TMS).* Provide the type, model, and series designation of the end article being produced under the contract being reported. Where no type or model designation applies, the part number and noun of the end article will be cited.

(e) *Contract No.* Enter the number of the contract being reported. For Mili-

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tary Interdepartmental Purchase Requests (MIPR's) both the MIPR and contract numbers will be listed.

(f) *Contractor's name and address.* Enter the contractor's name and address. Where the contractor is a division of a parent company, provide the division name only.

(g) *Column A, Contract Item No.* Enter the contract item number to be reported.

(h) *Column B, Category of Support Items.* This column is preprinted with an additional line for manual entry of any line item not listed but on which a report is desired.

(i) *Column C, Fund Project/Program, FY.* The fiscal year of the funds projects/programs to be reported will be entered in the space provided in the heading of the column. The funds project/program cited on the contract for the line items to be reported will be entered against the appropriate category line of the report.

(j) *Columns D, E, and F.* Will be completed according to instructions on AFPI 73.

(k) *Remarks.* Enter any pertinent remarks.

(l) *Initiator.* Enter typed name and title, and the signature of the individual requesting the report.

(m) *Administrative contracting officer.* Enter typed name and signature of the ACO.

§ 1057.1204 BOB approval.

Bureau of the Budget Approval No. 21-R058.4 is assigned, expiration date December 31, 1961.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

4. A new Subpart S is added as follows:

Subpart S—Bailed and Government Furnished Property Aircraft Test and Utilization Monthly Report (AFPI Form 9)

Sec.

1057.1900 Scope of subpart.

1057.1901 Applicability of subpart.

1057.1902 Responsibilities.

1057.1903 Reports control symbol.

AUTHORITY: §§ 1057.1900 to 1057.1903 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

§ 1057.1900 Scope of subpart.

This subpart prescribes preparation and submission of AFPI Form 9, "Bailed and Government Furnished Property Aircraft Test and Utilization Monthly Report." The report provides a medium for review of overall test aircraft utilization and project progress as well as a source of planning information for future development of test aircraft.

§ 1057.1901 Applicability of subpart.

This subpart applies to procuring contracting officers, AMC Aeronautical Systems Center, and to AMA's having contract administration jurisdiction over test and test support aircraft which are bailed or furnished as Government-furnished property (GFP) to AF contractors.

§ 1057.1902 Responsibilities.

(a) AMC will include in bailment agreements and/or prime contracts ARDC requirements for AFPI Form 9 for those test and test support aircraft which are bailed or furnished as GFP to AF contractors under ARDC technical surveillance according to AMCR 55-14—ARDC 55-4.

(b) Chiefs, air procurement districts and AF plant representatives will insure that AFPI Forms 9 are prepared by all contractors who have bailed or GFP aircraft for test or test support purposes. Contractors will submit three copies of AFPI Form 9 as of the close of business on the last workday of each month to reach WADC (WCTW) on the 5th calendar day of the next month.

§ 1057.1903 Reports control symbol.

RCS: ARDC-A9 and BOB Approval 21-R064.2 (which expires September 15, 1963) have been assigned to this report.

PART 1058—CONTRACT FINANCING

Subpart F—Debts Owed by Contractors; Deferred Payments

1. Section 1058.600 is added as follows:

§ 1058.600 Scope of subpart.

This subpart covers procurement responsibilities in connection with the ascertaining and arranging for collection of debts owed by contractors.

2. In § 1058.604, paragraph (a) is revised as follows:

§ 1058.604 Offset.

(a) Whether instructions to withhold payments under the specific contract under which the debt arose were issued or not, if within 30 days after maturity of a debt, whether the due date is established by the terms of the contract (e.g., rental contracts), or by formal demand for payment, full collection has not been made or a supplemental agreement has not been executed to provide for collection within not more than 90 days, the accounting and finance office will automatically apply payments under the contract to reduce the indebtedness. The amount withheld from payment, if any, and all future amounts becoming due under the contract will be offset until the indebtedness is satisfied.

3. In § 1058.607, paragraph (c) is revised; a new paragraph (d) is added; present paragraphs (d) and (e) are redesignated (e) and (f), as follows:

§ 1058.607 Deferred payments, unusual.

(c) Hq AMC will make an examination and analysis and will submit through channels on a priority basis an evaluation of the contractor's proposal, with the necessary supporting information and a recommendation, to the Directorate of Accounting and Finance, Contract Financing Branch, AFAAF-6C, Hq USAF. The Director of Accounting and Finance will refer the case to the Deputy for Contract Financing, Office of the Assistant Secretary of the Air Force.

(d) Pending the decision of the Deputy for Contract Financing, (1) the requirement for submitting a report of the case according to § 1058.608(b) will not apply, and (2) Hq AMC may authorize the finance officer to withhold or offset payments under the contract (in which instance the ACO will be immediately notified of the action) or Hq AMC may waive such action.

4. Section 1058.608 is added as follows:

§ 1058.608 Reports; hold-up list.

(a) Except as provided in paragraph (b) of this section, the appropriate accounting and finance office will submit, within 15 days after a debt becomes delinquent, a brief narrative report consisting of the name and location of the disbursing officer, name and address of the contractor, contract number, nature and amount of debt involved, together with the complete case file concerning the delinquent debt, to the Directorate of Accounting and Finance, Contract Financing Branch, AFAAF-6C, Hq USAF, for inclusion on the consolidated list of contractors indebted to the United States, commonly known as the "Hold-Up-List."

(b) The name of a company which is delinquent in the payment of a debt need not be forwarded for inclusion on the Hold-Up List under the following circumstances:

(1) If the company becomes delinquent in connection with a debt which provided for payment in cash within 30 days, a report to Hq USAF is not required if the appropriate accounting and finance office is satisfied that collection will be completed by the offset of payments under the contract to be made within 90 days after the initial demand. However, if the anticipated payment is not received within the 90 days, a report must be submitted.

(2) No amounts less than \$25 (unless due from carriers, in which case the minimum is \$10) will be reported.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

[SEAL] CHARLES M. McDERMOTT,
Colonel, U.S. Air Force, Deputy
Director of Administrative
Services.

[F.R. Doc. 59-10347; Filed, Dec. 7, 1959;
8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS

Sheep and Goats

Pursuant to the provisions of sections 6, 7, 8 and 10 of the Act of August 30,

1890, as amended, (21 U.S.C. 102-105), and section 2 of the Act of February 2, 1903, as amended, (21 U.S.C. 111), § 92.21 of the regulations governing the importation of certain animals and poultry and certain animal and poultry products (9 CFR Part 92) is amended by deleting paragraph (a) and substituting therefor the following:

(a) Sheep and goats offered for importation from Canada shall be accompanied by a certificate issued by a salaried veterinarian of the Canadian Government stating: (1) That such animals have been inspected on the premises of origin and found free of evidence of scrapie, and of any other communicable disease; (2) that, as far as it has been possible to determine, such animals have not been exposed to any such disease during the preceding 60 days; (3) that, as far as can be determined, scrapie has not existed on any premises on which such sheep or goats were located during the 42 months immediately prior to shipment of the United States; (4) that each of such animals is not the progeny of a sire or dam that has been affected with scrapie; and (5) that, as far as it has been possible to determine, each of such animals is not a sheep or goat that would have been slaughtered under the current Canadian scrapie eradication program had that program been in effect since April 1957.

This amendment formalizes procedures with respect to the importation of sheep and goats into the United States from Canada and should be made effective as soon as possible in order to afford maximum protection to the livestock of the United States. It is not believed that publication of a notice of rule making and other public procedure on the amendment would make additional information available to the Department. Therefore, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) it is found upon good cause that such notice and other public procedure are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the **FEDERAL REGISTER**.

The foregoing amendment shall become effective upon publication in the **FEDERAL REGISTER**.

Done at Washington, D.C., this 2d day of December 1959.

(Secs. 6, 7, 8, 10, 26 Stat. 416, as amended, 417, sec. 2, 32 Stat. 792, as amended; 21 U.S.C. 102-105, 111)

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 59-10354; Filed, Dec. 7, 1959;
8:49 a.m.]

No. 238—5

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Regulatory Docket No. 100; Amdt. 1-3]

PART 1—CERTIFICATION, IDENTIFICATION, AND MARKING OF AIRCRAFT AND RELATED PRODUCTS

Airworthiness Certification Requirements for Other Than Newly Manufactured Aircraft

Part 1 of the Civil Air Regulations contains provisions governing the certification of aircraft. Effective October 1, 1959, the Administrator issued Amendment 1-2 to Part 1 of the Civil Air Regulations (24 F.R. 7065) which amended § 1.67 by adding provisions applicable to the airworthiness certification of other than newly manufactured aircraft. Amendment 1-2 requires a manufacturer, a certificated repair station, or a certificated air carrier to inspect and find an aircraft to be airworthy before it is presented to the Federal Aviation Agency for issuance of an airworthiness certificate.

Interested persons were given an opportunity to participate in the making of Amendment 1-2 (24 F.R. 128) and all relevant matters presented were given due consideration. However, it has recently come to the attention of the Administrator that the provisions of Amendment 1-2 are imposing a burden upon many persons engaged in bona fide experimental flying activities and upon many owners of single-engine aircraft who do not have the services of a repair station or a manufacturer readily available to them.

Under these circumstances, the Administrator considers it appropriate to amend further § 1.67 of Part 1 to the extent necessary to provide relief for these persons. This can be accomplished without compromising safety by (1) permitting certificated mechanics holding inspection authorizations to conduct inspections and certify to the airworthiness of single-engine fixed-wing aircraft and, (2) relieving an applicant for an airworthiness certificate for an aircraft previously certificated in the normal, utility, acrobatic, or transport category but last certificated in the experimental category from the requirement that a manufacturer, a certificated repair station, an air carrier, or a certificated mechanic holding an inspection authorization must inspect and find such aircraft airworthy before it is presented to the Federal Aviation Agency for issuance of an airworthiness certificate. This latter provision is intended to provide relief for those cases where an aircraft having a standard airworthiness certificate is temporarily used for experimental purposes, such as flight testing new equipment, and is then restored to a configuration which is eligible for a standard airworthiness certificate.

Inasmuch as this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and it may be made effective on less than 30 days' notice.

In consideration of the foregoing, § 1.67(d) (2) of Part 1 of the Civil Air Regulations (14 CFR Part 1, as amended) is hereby amended as follows, effective December 8, 1959:

§ 1.67 Airworthiness certificates for normal, utility, acrobatic, and transport category aircraft; requirement for issuance.

* * * * *

(d) *Other aircraft.* * * *

(2) The aircraft (other than an aircraft which is certificated in the experimental classification and immediately prior thereto possessed an airworthiness certificate issued in accordance with this section which aircraft shall be governed by the provisions of subparagraphs (1) and (3) of this paragraph) has been inspected and found airworthy by the manufacturer, by an appropriately certificated domestic repair station, or by a certificated air carrier possessing adequate overhaul facilities and having a maintenance and inspection organization appropriate to the type of aircraft; except that, in the case of a single-engine fixed-wing aircraft, the inspection and finding may be made by a certificated mechanic holding an inspection authorization; and

(Secs. 313(a), 601, 603, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 2, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-10355; Filed, Dec. 7, 1959;
8:47 a.m.]

[Regulatory Docket No. 80; Amdt. 40-23]

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

Extension of Compliance Date for Oxygen System Requirements for Turbine-Powered Airplanes

Currently effective § 40.203-T(a) provides that on and after November 30, 1959, turbine-powered airplanes with pressurized cabins shall comply with the provisions of § 40.203-T. Section 40.203-T(c) requires that when operating at flight altitudes above 25,000 feet, one pilot at the controls of the airplane shall wear an oxygen mask at all times and all other flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be worn in a manner that will permit immediate placing of the masks on their faces for use, properly secured and sealed.

The Administrator has received information to the effect that this require-

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ment is not necessary to achieve the highest degree of safety in air transportation and it is claimed that compliance with this regulation may detract from the required crew coordination and adversely affect safety. The FAA intends to make further studies of this matter during the next 60 days. Under these circumstances, the effective date of this requirement will be delayed until February 1, 1960, to obtain additional information. If a change in this requirement is indicated, it will be accomplished prior to that date. If no change is required, the original rule will then become effective.

Since this amendment grants relief by extending the date for compliance with a requirement of the Civil Air Regulations, the Administrator finds that notice and public procedure hereon are not necessary, and that this amendment will be made effective immediately.

In consideration of the foregoing, § 40.203-T(c) of Part 40 of the Civil Air Regulations (14 CFR, Part 40, as amended) is amended as follows, effective November 30, 1959:

§ 40.203-T Supplemental oxygen for emergency descent and for first aid; turbine-powered airplanes with pressurized cabins.

* * * * *

(c) *Use of oxygen masks by flight crew members.* Prior to February 1, 1960, when operating at flight altitudes above 25,000 feet, all flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be immediately available for use. On and after February 1, 1960, when operating at flight altitudes above 25,000 feet, one pilot at the controls of the airplane shall wear and use an oxygen mask at all times and all other flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be worn in a manner that will permit immediate placing of the masks on their faces for use, properly secured and sealed.

(Secs. 313(a), 601, 604, 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on November 30, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-10336; Filed, Dec. 7, 1959;
8:47 a.m.]

[Regulatory Docket No. 81; Amdt. 41-30]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

Extension of Compliance Date for Oxygen System Requirements for Turbine-Powered Airplanes

Currently effective § 41.24a-T (a) provides that on and after November 30,

1959, turbine-powered airplanes with pressurized cabins shall comply with the provisions of § 41.24a-T. Section 41.24a-T(c) requires that when operating at flight altitudes above 25,000 feet, one pilot at the controls of the airplane shall wear and use an oxygen mask at all times and all other flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be worn in a manner that will permit immediate placing of the masks on their faces for use, properly secured and sealed.

The Administrator has received information to the effect that this requirement is not necessary to achieve the highest degree of safety in air transportation and it is claimed that compliance with this regulation may detract from the required crew coordination and adversely affect safety. The FAA intends to make further studies of this matter during the next 60 days. Under these circumstances the effective date of this requirement will be delayed until February 1, 1960, to obtain additional information. If a change in this requirement is indicated, it will be accomplished prior to that date. If no change is required, the original rule will then become effective. Since this amendment grants relief by extending the date for compliance with a requirement of the Civil Air Regulations, the Administrator finds that notice and public procedure hereon are not necessary, and that this amendment will be made effective immediately.

In consideration of the foregoing, § 41.24a-T(c) of Part 41 of the Civil Air Regulations (14 CFR Part 41, as amended) is amended as follows, effective November 30, 1959:

§ 41.24a-T Supplemental oxygen for emergency descent and for first aid; turbine-powered airplanes with pressurized cabins.

* * * * *

(c) *Use of oxygen masks by flight crew members.* Prior to February 1, 1960, when operating at flight altitudes above 25,000 feet, all flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be immediately available for use. On and after February 1, 1960, when operating at flight altitudes above 25,000 feet, one pilot at the controls of the airplane shall wear and use an oxygen mask at all times and all other flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be worn in a manner that will permit immediate placing of the masks on their faces for use, properly secured and sealed.

(Secs. 313(a), 601, 604, 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on November 30, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-10337; Filed, Dec. 7, 1959;
8:47 a.m.]

[Regulatory Docket No. 82; Amdt. 42-25]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

Extension of Compliance Date for Oxygen System Requirements for Turbine-Powered Airplanes

Currently effective § 42.27-T(a) provides that on and after November 30, 1959, turbine-powered airplanes with pressurized cabins shall comply with the provisions of § 42.27-T. Section 42.27-T(c) requires that when operating at flight altitudes above 25,000 feet, one pilot at the controls of the airplane shall wear and use an oxygen mask at all times and all other flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be worn in a manner that will permit immediate placing of the masks on their faces for use, properly secured and sealed.

The airlines now operating jet aircraft have represented to the Administrator that this requirement is not necessary to achieve the highest degree of safety in air transportation, and have indicated that its effect may even be adverse to safety. The FAA intends to make further studies of this matter during the next 60 days. Under these circumstances the effective date of this requirement will be delayed until February 1, 1960, to obtain additional information. If a change in this requirement is indicated, it will be accomplished prior to that date. If no change is required, the original rule will then become effective. Since this amendment grants relief by extending the date for compliance with a requirement of the Civil Air Regulations, the Administrator finds that notice and public procedure hereon are not necessary, and that this amendment will be made effective immediately.

In consideration of the foregoing, § 42.27-T(c) of Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) is amended as follows, effective November 30, 1959:

§ 42.27-T Supplemental oxygen for emergency descent and for first aid; turbine-powered airplanes with pressurized cabins.

* * * * *

(c) *Use of oxygen masks by flight crew members.* Prior to February 1, 1960, when operating at flight altitudes above 25,000 feet, all flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be immediately available for use. On and after February 1, 1960, when operating at flight altitudes above 25,000 feet, one pilot at the controls of the airplane shall wear and use an oxygen mask at all times and all other flight crew members on flight deck duty shall be provided with oxygen masks, connected to appropriate supply terminals, which shall be worn in a manner that will permit immediate placing of the masks on their faces for use, properly secured and sealed.

(Secs. 313(a), 601, 604, 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on November 30, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-10338; Filed, Dec. 7, 1959;
8:48 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket 59-WA-56; Amdt. 123]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEG- MENTS

Designation of Control Area Extension and Control Zone

On September 1, 1959, a Notice of Proposed Rule-Making was published in the **FEDERAL REGISTER** (24 F.R. 7082) stating that the Federal Aviation Agency proposed to amend Part 601 of the regulations of the Administrator by designating a control area extension and a control zone at Glasgow AFB, Mont.

As stated in the notice, the Federal Aviation Agency is considering the designation of a control zone and control area extension at Glasgow AFB. There is at present no controlled airspace designated at Glasgow AFB. In order to enable the control of aircraft in holding patterns and on approaches and departures from the air base, a control area extension of thirty-mile radius centered on the Glasgow AFB is designated. In addition, to provide adequate separation for aircraft utilizing the instrument approaches for the airport, a control zone of five-mile radius is designated at Glasgow AFB with an extension within two miles either side of the 122° radial of the Glasgow TVOR to a point twenty miles southeast of the TVOR. The ten-mile extension as stated in the Notice does not provide adequate separation for aircraft utilizing the two published instrument approaches to the airport. Moreover, the radial has been corrected from 119° to 122° to coincide with the published instrument approaches. Such action will result in the designation of a control area extension of thirty-mile radius centered on the Glasgow AFB as well as the designation of a five-mile radius control zone centered on the AFB and an extension twenty miles southeast of the Glasgow TVOR.

Two comments were received regarding the proposed amendment. One of the comments was from the Montana Aeronautics Commission which recommended that the control area extension be established with a floor of 1,500 feet in accordance with Civil Air Regulations Amendment 60-14 effective January 1, 1960. However, the Federal Aviation Agency has issued a Notice of Proposed Rule Making to extend the implementation date of CAR 60-14 to July 1, 1960.

At such time as this amendment becomes effective, the Federal Aviation Agency will review the Glasgow AFB control area extension and control zone and the Montana Aeronautics Commission recommendation will be considered. The other comment interposed no objection.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) Part 601 (14 CFR, 1958 Supp., Part 601) is amended by adding the following sections:

§ 601.2459 Glasgow, Mont., control zone.

That airspace within a five-mile radius of the Glasgow AFB, and within two miles either side of the 122° radial of the Glasgow TVOR to a point twenty miles southeast of the Glasgow TVOR.

§ 601.1474 Control area extension (Glasgow, Mont.).

That airspace within a thirty-mile radius of Glasgow AFB, Mont.

These amendments shall become effective 0001 e.s.t. January 14, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 1, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10319; Filed, Dec. 7, 1959;
8:45 a.m.]

[Airspace Docket 59-WA-79; Amdt. 126]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEG- MENTS

Modification of Control Area Extension

The purpose of this amendment to § 601.1363 of the regulations of the Administrator is to modify the Lufkin, Tex., control area extension.

The present Lufkin control area extension is designated within 5 miles either side of the 157° radial of the Lufkin VOR extending from the station to a point 10 miles southeast and within 5 miles either side of a line bearing 304° extending from the Lufkin radio beacon to a point 10 miles northwest. The Federal Aviation Agency is designating additional airspace south of Lufkin, Tex., as control area to provide air traffic control service for aircraft holding northeast of the Daisetta, Tex., intersection. Such action will result in all of that airspace south of Lufkin bounded on the west by Victor 13 E, on the south by Victor 222 N and on the east by Victor 289 being designated as controlled airspace. This modification encompasses approximately 65 additional square miles in the Lufkin control area extension. Coincident with

this action, the portion of the control area extension based on the 157° radial of the Lufkin VOR is being revoked as it lies within existing airways.

This action has been coordinated with the Army, the Navy, the Air Force, and interested civil aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act have, in effect, been complied with. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 601.1363 (14 CFR, 1958 Supp., 601.1363) is amended to read:

§ 601.1363 Control area extension (Lufkin, Tex.).

Within 5 miles either side of a line bearing 304° extending from the Lufkin RBN to a point 10 miles NW and the airspace S of Lufkin, Tex., bounded on the W by VOR Federal airway No. 13 E, on the S by VOR Federal airway No. 222 N and on the E by VOR Federal airway No. 289.

This amendment shall become effective 0001 e.s.t., January 14, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 1, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10320; Filed, Dec. 7, 1959;
8:45 a.m.]

[Airspace Docket No. 59-WA-55; Amdt. 133]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEG- MENTS

Modification of a Control Area Extension

The purpose of this amendment to § 601.1038 of the regulations of the Administrator is to modify the Great Falls, Mont., control area extension.

The primary eastbound departure route from Malstrom AFB, Great Falls, Mont., is via the Great Falls VOR 074° radial to the Shonkin intersection, thence via the Lewiston VOR 308° radial to the Lewiston VOR. A small portion of this route lies outside of controlled airspace. In order to provide protection for eastbound IFR flights departing Malstrom AFB, the Federal Aviation Agency is setting apart additional controlled airspace to encompass the entire departure route. This action results in designating that area bounded on the northeast by a line 5 miles northeast of and parallel to the 308° radial of the Lewiston VOR, on the south by Vic-

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tor 19 and on the west by the present Great Falls control area extension.

This action has been coordinated with the Army, the Navy, the Air Force, and interested civil aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act have, in effect, been complied with. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 601.1038 (14 CFR, 1958 Supp., 601.1038) is amended as follows:

In the text of § 601.1038 *Control area extension (Great Falls, Mont.)*, add: "Also, including that airspace from the 45-mile radius extension of the Lewistown, Mont., VOR, bounded on the NE by a line 5 miles NE of and parallel to the Lewistown VOR 308° radial and on the S by VOR Federal airway No. 19.

This amendment shall become effective 0001 e.s.t., January 14, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 1, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10321; Filed, Dec. 7, 1959;
8:45 a.m.]

[Airspace Docket No. 59-WA-240; Amdt. 139]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone

The purpose of this amendment to § 601.2218 of the regulations of the Administrator is to modify the Sioux Falls, S. Dak., control zone.

The present Sioux Falls control zone is designated as a five-mile radius of the airport with extensions to the northwest and northeast. In order to provide adequate protection for aircraft utilizing the prescribed ILS/ADF instrument approaches for the airport, it is necessary to designate an extension to the southwest. Such action will result in an additional control zone extension being designated within 2 miles either side of the ILS localizer southwest course extending from the ILS outer marker to a point 12 miles southwest.

This action has been coordinated with the Army, the Navy, the Air Force, and interested civil aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act have, in effect, been complied with. However, since it is necessary that suffi-

cient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 601.2218 (14 CFR, 1958 Supp., 601.2218) is amended as follows:

In the text of § 601.2218 *Sioux Falls, S. Dak., control zone*, delete "and within 2 miles either side of the northeast (back) course of the Sioux Falls ILS localizer extending from the localizer to a point 16 miles northeast," and substitute therefor "within 2 miles either side of the Sioux Falls ILS localizer southwest course extending from the ILS outer marker to a point 12 miles southwest, and within 2 miles either side of the northeast (back) course of the ILS localizer extending from the localizer to a point 16 miles northeast."

This amendment shall become effective 0001 e.s.t. January 14, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 1, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10322; Filed, Dec. 7, 1959;
8:45 a.m.]

[Airspace Docket No. 59-FW-24; Amdt. 14]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone and Control Area Extension

On August 22, 1959, a Notice of Proposed Rule-Making was published in the *FEDERAL REGISTER* (24 F.R. 6860) stating that the Federal Aviation Agency proposed to amend §§ 601.1190 and 601.2359 of the regulations of the Administrator by modifying the McComb, Miss., control zone and control area extension.

As stated in the Notice, the present McComb, Miss., control zone and control area extension are partially defined by reference to the McComb low frequency radio beacon. The Federal Aviation Agency is planning to discontinue the operation of the McComb low frequency nondirectional radio beacon on January 14, 1960. (This is a revised date from that contained in the Notice to conform with the charting schedule.) McComb Pike County Airport is presently served by the low frequency radio beacon on the airport and an omnirange station located 11.2 nautical miles east-northeast. Such action will result in deleting all reference to the McComb low frequency nondirectional radio beacon from the McComb control zone and control area extension.

No comment was received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) §§ 601.1190 and 601.2359 (14 CFR, 1958 Supp., 601.1190, 601.2359) are amended to read:

§ 601.1190 Control area extension (McComb, Miss.).

That airspace within five miles either side of the McComb VOR 074° radial extending from the VOR to a point fifteen miles east.

§ 601.2359 McComb, Miss., control zone.

Within a five-mile radius of the McComb-Pike County Airport and within two miles either side of the McComb VOR 074° and 254° radials extending from the five mile radius zone to a point ten miles east of the VOR.

This amendment shall become effective 0001 e.s.t. January 14, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 1, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10323; Filed, Dec. 7, 1959;
8:45 a.m.]

[Airspace Docket No. 59-FW-23; Amdt. 156]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of a Control Zone

On September 23, 1959, a Notice of Proposed Rule-Making was published in the *FEDERAL REGISTER* (24 F.R. 7655) stating that the Federal Aviation Agency was considering an amendment to § 601.2305 of the Regulations of the Administrator which would modify the Lawton, Okla., control zone.

As stated in the Notice, the present Lawton control zone is designated within a three-mile radius of Lawton Municipal Airport and within two miles either side of the Lawton VOR 357° and 177° radials, extending from the airport to a point ten miles south of the VOR. Post Army Air Field, Okla., is located approximately five miles north of Lawton Airport. The presently established ADF instrument approach to Post AAF, based on the Post radio beacon, requires aircraft to proceed outside controlled airspace on the final approach. In order to provide protection for aircraft executing ADF instrument approaches to Post AAF, the Federal Aviation Agency is increasing the Lawton control zone from a three-mile radius to a five-mile radius of Law-

ton Municipal Airport, excluding the portion which overlies Fort Sill, Okla., Restricted Area (R-208).

No adverse comments were received regarding this amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 601.2305 (14 CFR, 1958 Supp., 601.2305) is amended as follows:

In the text of § 601.2305 *Lawton, Okla., control zone*, delete "Within a 3-mile radius of Lawton Municipal Airport" and substitute therefor "Within a 5-mile radius of Lawton Municipal Airport, excluding the portion which overlies Fort Sill Restricted Area (R-208)."

This amendment shall become effective 0001 e.s.t. January 14, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 1, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10324; Filed, Dec. 7, 1959;
8:45 a.m.]

[Airspace Docket No. 59-WA-167; Amdt. 17]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Modification of Coded Jet Routes

The purpose of these amendments to §§ 602.553 and 602.559 of the regulations of the Administrator is to modify VOR/VORTAC jet route No. 53 and VOR/VORTAC jet route No. 59, to eliminate the Morgantown, W. Va., VOR from the high altitude route structure.

Jet route J-53-V presently extends from Key West, Fla., to Pittsburgh, Pa., and jet route J-59-V extends from Charleston, W. Va., to Syracuse, N.Y. Adequate navigational guidance is provided for J-53-V and J-59-V between Key West and Pittsburgh and Charleston and Syracuse without utilization of the Morgantown VOR. The elimination of the Morgantown VOR will permit better frequency assignment to other VOR facilities as Morgantown VOR will not require frequency protection to the extent necessary for navigational guidance in the jet route structure.

This action has been coordinated with the Army, the Navy, the Air Force, and interested civil aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act have, in effect, been complied with. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) §§ 602.553 and 602.559 (14 CFR, 1958, Supp., 602.553, 24 F.R. 1287; 602.559) are amended as follows:

§ 602.553 [Amendment]

1. In the text of § 602.553 *VOR/VORTAC jet route No. 53 (Key West, Fla., to Pittsburgh, Pa.)*, delete "Pulaski, Va., VOR; Morgantown, W. Va., VOR to the Pittsburgh, Pa., VOR." and substitute therefor "Pulaski, Va., VOR to the Pittsburgh, Pa., VOR."

2. Section 602.559 is amended to read:

§ 602.559 *VOR/VORTAC jet route No. 59 (Charleston, W. Va., to Syracuse, N.Y.)*.

From the Charleston, W. Va., VORTAC via the Philipsburg, Pa., VORTAC to the Syracuse, N.Y., VOR.

These amendments shall be effective 0001 e.s.t. January 14, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 1, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10317; Filed, Dec. 7, 1959;
8:45 a.m.]

[Airspace Docket No. 59-WA-317; Amdt. 25]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Modification of a Coded Jet Route

The purpose of this amendment to § 602.137 of the regulations of the Administrator is to modify the segment of L/MF jet route No. 37 between Atlanta, Ga., and Richmond, Va.

Jet route J-37-L presently extends from New Orleans, La., to Burlington, Vt., and the segment of this route from Atlanta to Richmond is designated via the Greenville, S.C., radio range. The Greenville radio range is no longer necessary for air traffic management and is therefore being decommissioned. As a result of this decommissioning, it is necessary to redesignate the Atlanta-Richmond segment of J-37-L via the Spartanburg, S.C., radio range.

This action has been coordinated with the Navy, the Air Force, and interested civil aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act have, in effect, been complied with. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530)

§ 602.137 (24 F.R. 1287) is amended as follows:

In the text of § 602.137 *L/MF jet route No. 37 (New Orleans, La., to Burlington, Vt.)*, Delete "Greenville, S.C., RR;" and substitute therefor "Spartanburg, S.C., RR;".

This amendment shall become effective 0001 e.s.t., January 14, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 1, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10318; Filed, Dec. 7, 1959;
8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7513 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Prince Macaroni Manufacturing Co. et al.

Subpart—*Advertising falsely or misleadingly*: § 13.20 *Comparative data or merits*; § 13.30 *Composition of goods*; § 13.170 *Qualities or properties of product or service*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Prince Macaroni Manufacturing Co. et al., Lowell, Mass., Docket 7513, September 30, 1959]

In the Matter of Prince Macaroni Manufacturing Co., a Corporation, and Joseph Pellegrino, Anthony J. Cantella, Ugo Trio and Salvatore Cantella, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging Lowell, Mass., manufacturers with advertising falsely that their macaroni was a low-calorie food, with lower starch and higher protein content than comparative products, consumption of which would result in loss of weight.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 30 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents, Prince Macaroni Manufacturing Co., a corporation, and its officers, and Joseph Pellegrino, Anthony J. Cantella, Ugo Trio and Salvatore Cantella, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Prince Macaroni, or any other product of substantially similar composition,

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whether sold under the same name or under any other name, do forthwith cease and desist from:

1. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or indirectly, that:

- a. Said product is a low calorie food.
- b. The starch content in said product is less than in other macaroni products.
- c. The protein content of said product is higher than in other macaroni products.
- d. The consumption of said product will result in the loss of body weight.

2. Disseminating, or causing to be disseminated, any advertisement, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said product preparation, which advertisement contains any of the representations prohibited in Paragraph 1 hereof.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 30, 1959.

By the Commission,

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-10325; Filed, Dec. 7, 1959;
8:45 a.m.]

[Docket 6564 o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Enurtone Co.

Subpart—*Advertising falsely or misleadingly*: § 13.170 qualities or properties of product or service.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Maurice J. Feil et al. trading as The Enurtone Company, Beverly Hills, Calif., Docket 6564, October 2, 1959]

In the Matter of Maurice J. Feil and Leo A. Loeb, Individually and as Copartners Trading as the Enurtone Company

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Beverly Hills, Calif., concern with advertising falsely that its "Enurtone" device would stop all cases of bed wetting.

From the initial decision complaint counsel filed an appeal which the Commission granted in part and, having modified the initial decision, adopted it on

October 2 as thus modified as the decision of the Commission.

The order to cease and desist as thus modified is as follows:

It is ordered, That respondents Maurice J. Feil and Leo A. Loeb, individually and as copartners trading as The Enurtone Company, or trading under any other name or names, and their respective agents, representatives, employees and lessees, directly or through any corporate or other device in connection with the offering for sale, sale, leasing or distribution of a device known as "Enurtone", or any other device which functions in substantially the same manner in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly: That the use of said device is of value in stopping bed-wetting or correcting the bed-wetting habit, unless expressly limited in a clear and conspicuous manner to cases of bed-wetting not involving organic defects or diseases.

By "Final Order", report of compliance was required as follows:

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 2, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-10326; Filed, Dec. 7, 1959;
8:46 a.m.]

[Docket 7500 o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Durham's Business College et al.

Subpart—*Advertising falsely or misleadingly*: § 13.15 Business status, advantages, or connections: Concealed subsidiary or interest; Personnel or staff; Qualifications and abilities; Size and extent; § 13.55 Demand, business, or other opportunities; § 13.60 Earnings and profits; § 13.105 Individual's special selection or situations; § 13.115 Jobs and employment service; § 13.125 Limited offers or supply; § 13.143 Opportunities. Subpart—*Operating secret subsidiary*: § 13.2095 Operating secret subsidiary.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Orders to cease and desist, Durham's Business College (Houston, Tex.) et al., Docket 7500, October 6, 1959]

In the Matter of Durham's Business College, a Corporation, and Elmond F. Gau, Howard G. Patterson, J. S. Talbert, Individually and as Officers of Said Corporation, and Harburd E. Tarpley, an Individual

This proceeding was heard by a hearing examiner on the complaint of the Commission charging Texas distributors

of a correspondence course in civil and criminal investigation, operating under the name of "Central Detective Academy", with making in advertising and through salesmen false claims concerning employment, demand and wages for graduates of said courses, limitation and selection of enrollees, competency of instructors, organization, status and size of business, qualifications or status of its salesmen, and the independent status of two wholly owned collection agencies.

Following acceptance of two agreements containing consent orders, the hearing examiner made his initial decisions and orders to cease and desist which became on October 6 the decisions of the Commission.

The identical orders to cease and desist are as follows:

It is ordered, That Durham's Business College, a corporation, and its officers, and Elmond F. Gau, individually and as an officer of said corporate respondent, and also trading and doing business as All Purpose Acceptance Company and General Purpose Acceptance Company, or under any other name, and Harburd E. Tarpley, an individual trading and doing business as Central Detective Academy, or under any other name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of courses of study and instruction, including a course of study and instruction in civil and criminal investigation, or the supplies and equipment used in connection therewith, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, that:

1. Persons completing said course of study and instruction in civil and criminal investigation will be employed by respondents or that employment will be secured by respondents for such persons as civil or criminal investigators; or that persons completing said courses of study and instruction will be employed by respondents or employment will be secured by respondents for such persons in any occupation or profession unless such is the fact;

2. There is a great demand by persons, firms or corporations to employ persons completing said course of instruction in civil and criminal investigation as civil or criminal investigators; or that the demand or need for persons completing said courses of study and instruction is greater than it is in fact;

3. Persons completing said course of study and instruction in civil and criminal investigation will be employed by respondents or employment will be secured by respondents for such persons as civil or criminal investigators at wages of \$4.00 per hour; or that persons completing said courses of study and instruction will be employed by respondents or employment will be secured by respondents at wages or other compensation greater than will be in fact paid to such persons;

4. The number of persons accepted for enrollment in said course of study and instruction in civil and criminal

investigation is limited or restricted; or that enrollment in said courses is limited or restricted to a degree greater than is the fact;

5. Persons accepted for enrollment in said course of study and instruction in civil and criminal investigation are specially selected; or that persons accepted for enrollment in said courses of study and instruction are specially selected unless such is the fact;

6. Persons enrolled in said course of study in civil and criminal investigation perform their studies under the tutelage and guidance of persons trained, competent and proficient in the art of teaching and in the profession of civil and criminal investigation; or that persons enrolled in said courses of study and instruction are under the tutelage and guidance of persons possessing experience, training or other qualifications different or greater than is the fact;

7. Central Detective Academy is or has been a division of a college or institution of higher learning; or that said courses of study and instruction are offered by an organization having an academic status or affiliation different or greater than is the fact;

8. Central Detective Academy is the largest institution in the United States for the instruction and training of civil and criminal investigators; or that said courses of study and instruction are offered by an organization of a size or status different or greater than is the fact;

9. Persons offering said course of study in civil and criminal investigation for sale are civil or criminal investigators; or that persons offering said courses of study and instruction for sale have any training, experience, qualifications or status other or different from that which they have in fact;

10. All Purpose Acceptance Company or General Purpose Acceptance Company are independent or separate organizations from the said business enterprise operated under the name of Central Detective Academy or are innocent purchasers for value of the promissory notes executed by enrollees in said course of instruction in civil and criminal investigation; or that any collection agency is an independent or separate organization or an innocent purchaser for value of promissory notes executed by enrollees in said courses of instruction when it is in fact owned, operated or controlled by respondents.

It is further ordered, That the complaint, insofar as it relates to respondent Harburd E. Tarpley in connection with respondent Durham's Business College be, and the same hereby is, dismissed and that the complaint be, and the same hereby is, dismissed as to respondents Howard G. Patterson and J. S. Talbert.

By two decisions of the Commission, reports of compliance were required as follows:

It is ordered, That respondents Durham's Business College, a corporation, and Elmond F. Gau, individually and as an officer of said corporate respondent, and Harburd E. Tarpley, an individual trading and doing business as Central

Detective Academy, shall, within sixty (60) days after service upon them of these orders, file with the Commission reports in writing, setting forth in detail the manner and form in which they have complied with the orders to cease and desist.

Issued: October 6, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-10327; Filed, Dec. 7, 1959;
8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 146 d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS

Changes in Labeling Requirements Re Expiration Date and Prescription Legend

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500), the regulations for the certification of chloramphenicol and chloramphenicol-containing drugs are amended as indicated below:

1. Section 146d.301(c) is amended as follows:

a. Subparagraph (1)(iii) is amended by changing the clause following the word "certified" to read: *"Provided, however, That such expiration date may be omitted from the immediate container if it contains a single dose and it is packaged in an individual wrapper or container;"*

b. Subparagraph (1) is further amended by changing the period at the end of subdivision (iv) to a semicolon and by adding a new subdivision (v):

(v) The statement "Caution: Federal law prohibits dispensing without prescription," unless it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled.

c. Subparagraph (2) is deleted and reserved.

2. Section 146d.302(c) is amended as follows:

a. Subparagraph (1)(ii) is amended by deleting the word "and" after the semicolon.

b. Subparagraph (1)(iii) is amended by changing the colon after the word "certified" to a semicolon and deleting the remainder of the subdivision.

c. Subparagraph (1) is further amended by adding a new subdivision (iv):

(iv) The statement "Caution: Federal law prohibits dispensing without prescription," unless it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled.

d. Subparagraph (2) is amended by deleting subdivision (i) and by incorporating subdivision (ii) into subparagraph (2).

3. Section 146d.303(c) is amended as follows:

a. Subparagraph (1) is amended by deleting the word "and" at the end of subdivision (iii).

b. Subparagraph (1)(iv) is amended by changing the clause following the word "certified" to read: *"Provided, however, That such expiration date may be omitted from the immediate container if it contains a single dose and it is packaged in an individual wrapper or container;"*

c. Subparagraph (1) is further amended by adding a new subdivision (v):

(v) The statement "Caution: Federal law prohibits dispensing without prescription," unless it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled.

d. Subparagraph (2) is amended by deleting subdivision (i) and by incorporating subdivision (ii) into subparagraph (2).

4. Section 146d.304(c) is amended as follows:

a. Subparagraph (1)(iii) is amended by changing the colon after the word "certified" to a semicolon and deleting the remainder of the subdivision.

b. Subparagraph (1) is further amended by changing the period after subdivision (v) to a semicolon and adding a new subdivision (vi):

(vi) The statement "Caution: Federal law prohibits dispensing without prescription," unless it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled.

c. Subparagraph (2) is amended by deleting subdivision (i) and by incorporating subdivision (ii) into subparagraph (2).

5. Section 146d.305(c)(3) is amended by changing the colon after the word "certified" to a period and deleting the remainder of the subparagraph.

6. Section 146d.306(c) is amended as follows:

a. Subparagraph (1)(iv) is amended by changing the colon after the words "vitamin substances" to a period and deleting the remainder of the subdivision.

b. Subparagraph (1) is further amended by adding a new subdivision (v):

(v) The statement "Caution: Federal law prohibits dispensing without prescription," unless it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled.

RULES AND REGULATIONS

c. Subparagraph (2) is amended by deleting subdivision (i) and by incorporating subdivision (ii) into subparagraph (2).

7. Section 146d.307(c) is amended as follows:

a. Subparagraph (1)(iii) is amended by changing the clause beginning "Provided, however, That such expiration date may be omitted from the immediate container if it contains a single dose and it is packaged in an individual wrapper or container."

b. Subparagraph (1) is further amended by adding a new subdivision (vi):

(vi) The statement "Caution: Federal law prohibits dispensing without prescription," unless it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled.

c. Subparagraph (2) is amended by deleting subdivision (i) and by incorporating subdivision (ii) into subparagraph (2).

8. Section 146d.308(c) is amended as follows:

a. Subparagraph (1)(iii) is amended by changing the colon after the word "certified" to a period and deleting the remainder of the subdivision.

b. Subparagraph (1) is further amended by adding a new subdivision (v):

(v) The statement "Caution: Federal law prohibits dispensing without prescription," unless it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled.

(c) Subparagraph (2) is amended by deleting subdivision (i) and by incorporating subdivision (ii) into subparagraph (2).

9. Section 146d.309(a)(4) is amended by changing the colon after the word "certified" to a period and deleting the remainder of the subparagraph.

10. Section 146d.312(c) is amended by changing the clause following the word "certified" to read: "Provided, however, That such expiration date may be omitted from the immediate container if it contains a single dose and it is packaged in an individual wrapper or container."

11. Section 146d.313(b) is amended by changing the clause following the word "certified" to read: "Provided, however, That such expiration date may be omitted from the immediate container if it contains a single dose and it is packaged in an individual wrapper or container."

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the affected industry has been informed that publication of these amendments was pending and no controversy concerning the need for such amendments has been encountered.

Effective dates. All amendments involving expiration dates shall become effective 30 days from the date of publication of this order in the **FEDERAL REGISTER**. All amendments involving placement of the prescription legend on immediate containers shall become effective 90 days from the date of publication. (Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 27, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 59-10328; Filed, Dec. 7, 1959;
8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LEASES

[Circular 2032]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES AND LICENSES

PART 192—OIL AND GAS LEASES

SUBCHAPTER Z—WITHDRAWALS, RESTORATIONS, AND CLASSIFICATIONS

PART 295—WITHDRAWALS AND RESERVATIONS OF FEDERAL LANDS

Miscellaneous Amendments

On pages 948-949 of the **FEDERAL REGISTER** of February 7, 1959, there was published a notice of proposed rule making of proposed amendments of §§ 192.42(d), 192.43, and 192.161 of the regulations applicable to oil and gas leasing. Interested parties were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendments.

After careful consideration of the comments received, §§ 192.43 and 192.161 of the proposed amendments are changed as set forth below, the proposed amendment of § 192.42(d) is revoked, and in addition, §§ 191.10, 192.120(g), and 295.8(b) are also amended. The amendments of §§ 191.10, 192.120(g), and 295.8(b), and of §§ 192.43 and 192.161 as changed, and as set forth below, are hereby adopted to take effect 30 days from publication in the **FEDERAL REGISTER**.

DECEMBER 2, 1959.

ELMER F. BENNETT,
Acting Secretary of the Interior.

1. Section 191.10 is amended by designating the present text as paragraph (a) and by adding thereto a new paragraph (b). The section reads as follows:

§ 191.10 Simultaneous applications or offers for lease.

(a) Where applications or offers received by mail or filed over the counter at the same time are in conflict the right of priority of filing will be determined by public drawing in the manner provided in § 295.8(b) of this chapter.

(b) The priorities of all applications or offers to lease made and filed in accordance with the provisions of § 192.43 of this chapter, whether or not they are in conflict, will be determined by public drawing in the manner provided in § 295.8 of this chapter.

2. Section 192.43 is amended to read as follows:

§ 192.43 Availability of lands to further lease offers where noncompetitive lease expires, is cancelled, relinquished or terminated.

(a) Lands in cancelled or relinquished leases or in leases which terminate by operation of law for non-payment of rental pursuant to 30 U.S.C. sec. 188, which are not withdrawn from leasing nor on a known geological structure of a producing oil and gas field shall be subject to the filing of new lease offers only after notation on the official record of the cancellation, relinquishment, or termination of such lease and only in accordance with the provisions of this section. All lands covered by leases which expire by operation of law at the end of their primary or extended terms shall likewise be subject to the filing of new lease offers only in accordance with the provisions of this section except that notation of such expiration of the leases need not be made on the official records.

(b) On the third Monday of each month or the first working day thereafter if the land office is not officially open for business on the third Monday, the authorized officer of the Bureau of Land Management will post on the bulletin board in each land office a list by subdivision, section, township and range if surveyed or officially protracted, or, if unsurveyed, by the metes and bounds description of the lands in leases which expired, were cancelled, relinquished in whole or in part, or terminated and which will become subject to leasing at 10 o'clock a.m. on the fifth working day thereafter together with a notice stating that the lands in such leases are subject to simultaneous filings of lease offers from the time of such posting until 10 o'clock a.m. on the said fifth working day thereafter.

(c) Each offer to lease must conform with the acreage requirements of § 192.42(d), and must be accompanied by separate checks covering the filing fee and advance rental payment required by the regulations in this chapter. Any offer not so submitted will not be accepted for filing.

(d) If more than one offer to lease all or any part of the acreage covered by an expired, cancelled, relinquished, or

terminated lease is filed during the period provided for in paragraph (b) of this section, their priorities will be determined by a public drawing in accordance with § 295.8 of this chapter.

(e) Offers to lease which cover lands not within the foregoing categories and which are received in the same mail or over the counter at the same time, will be considered as having been filed simultaneously and priority to the extent of the conflicts between them will be determined by a public drawing in accordance with the provisions of § 295.8 of this chapter.

(f) If no offers to lease all or any portion of the lands in the expired, cancelled, relinquished or terminated leases are received during the period provided for in paragraph (b) of this section the lands for which no offers are received will thereafter become subject to lease in accordance with regulations in this part.

3. Paragraph (g) of § 192.120 is amended to read as follows:

§ 192.120 Single extension of a noncompetitive lease.

(g) Upon failure of the lessee or the other persons enumerated in paragraph (a) of this section to file an application for extension within the specified period, the lease will expire at the expiration of its primary term without notice to the lessee. Notation of such expiration need not be made on the official records, but the lands covered by such expired lease will be subject to the filing of new lease offers only as provided in § 192.43.

4. Paragraph (a) of § 192.161 is amended to read as follows:

§ 192.161 Cancellation and termination of lease.

(a) Any lease issued after July 29, 1954, or any lease which is extended after that date pursuant to § 192.120 on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. The termination of the lease for failure to pay the rental must be noted on the official records of the appropriate Land Office. Upon such notation the lands included in such lease will become subject to the filing of new lease offers only as provided for in § 192.43.

5. Section 295.8(b) is amended by adding thereto a new subparagraph (1) to read as follows:

§ 295.8 Processing of simultaneous applications.

* * * * *

(b) * * *
(1) Notwithstanding the provisions of paragraph (a) of this section, the priorities of all applications or offers to lease made and filed in accordance with the provisions of § 192.43 of this chapter will be determined by public drawing whether or not they are in conflict.

[F.R. Doc. 59-10330; Filed, Dec. 7, 1959; 8:47 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

APPENDIX—EXTENSION OF THE TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

Trust Periods Expiring During Calendar Year 1960

By virtue of and pursuant to the authority delegated by Executive Order No. 10250 of June 5, 1951, and pursuant to section 5 of the Act of February 8, 1887 (24 Stat. 388, 389), the Act of June 21, 1906 (34 Stat. 325, 326), and the Act of March 2, 1917 (39 Stat. 969, 976), and other applicable provision of law, it is hereby ordered that the periods of trust or other restrictions against alienation contained in any patent applying to Indian lands, whether of a tribal or individual status, which, unless extended will expire during the calendar year 1960, be, and the same are hereby, extended for a further period of five years from the date on which any such trust would otherwise expire.

This order is not intended to apply to any case in which Congress has specifically reserved to itself authority to extend the period of trust on tribal or individual Indian lands.

ELMER F. BENNETT,
Acting Secretary of the Interior.

DECEMBER 1, 1959.

[F.R. Doc. 59-10329; Filed, Dec. 7, 1959; 8:46 a.m.]

PROPOSED RULE MAKING

FEDERAL AVIATION AGENCY

I 14 CFR Part 406 1

[Reg. Docket No. 198; Draft Release 59-2]

CLASS III MEDICAL EXAMINATIONS AND CERTIFICATES BY MEDICAL EXAMINERS

Notice of Public Hearing

Notice is hereby given that an informal hearing, in accordance with section 4(b) of the Administrative Procedure Act, will be held before a representative of the Federal Aviation Agency at 10:00 a.m., e.s.t., on Thursday, January 14, 1960, at 1711 New York Avenue NW., Washington, D.C., for the purpose of receiving the oral views and comments

No. 238—6

of interested persons in regard to certain proposals contained in Draft Release 59-2, published in the FEDERAL REGISTER on April 17, 1959 (24 F.R. 2961).

The proposals would reestablish the previous practice that only designated medical examiners may give required airman medical examinations and issue medical certificates of any class. This would be accomplished by amending §§ 406.1, 406.11(b) and 406.12(c)(2) to add a definition of "medical examiner" and to limit the persons who may give medical examinations to such medical examiners.

Any person who wishes to present oral views and comments at such hearing should send advance written notice of such intention, addressed to the Docket

Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. Such notice should include the name of the person or persons represented and an estimate of the amount of time to be required for the presentation of the views and comments.

All comments received in the hearing will be considered before taking action on the proposed amendment, and the proposal may be changed in light of the comments received.

Issued in Washington, D.C., on December 3, 1959.

JAMES L. GODDARD, M.D.,
Civil Air Surgeon.

[F.R. Doc. 59-10396; Filed, Dec. 7, 1959; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Ch. 1]

REVISION OF REGULATIONS

Notice of Proposed Rule Making

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), it is proposed to revise, rearrange and amend Chapter I, Title 36 CFR as set forth below. The purpose of these revisions, rearrangements and amendments is to clarify and modernize the chapter, as well as to establish reasonable and safe regulations for boating in the national parks, monuments and recreation areas. It is intended also, to have all fees affecting the general public under the one part so that they may be easily located by interested persons.

It is the policy of the Department of the Interior that, wherever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the National Park Service, Washington 25, D.C., within 21 days of the date of publication of this notice in the **FEDERAL REGISTER**.

ROGER ERNST,

Assistant Secretary of the Interior.

Part

- 1 General rules and regulations.
- 2 General rules and regulations; National Recreation Areas.
- 3 National Capital Parks regulations.
- 4 National cemetery regulations.
- 5 Private lands subject to exclusive jurisdiction of the United States.
- 6 Vehicle, guide, admission, and miscellaneous fees.
- 7 Special regulations relating to parks and monuments.
- 8 Labor standards applicable to employees of National Park Service concessioners.
- 9 Procedure and business of the National Park Trust Fund Board.
- 10 Disposal of certain wild animals.
- 20 Isle Royale National Park; commercial fishing.
- 21 Hot Springs National Park; bathhouse regulations.
- 22 Glacier National Park; timber disposal regulations.
- 25 National Military Parks; licensed guide service regulations.
- 26 Olympic and Mount Rainier National Parks; timber disposal regulations.

TABLE SHOWING RELATIONSHIP OF PARTS IN PRESENT REGULATIONS TO PROPOSED REVISION

Part No. in present regulations: Part No. in proposed revision

| | |
|----|----------|
| 1 | Same. |
| 2 | Same. |
| 3 | Same. |
| 5 | 4. |
| 6 | Deleted. |
| 12 | 5. |
| 13 | 6. |
| 20 | 7. |
| 21 | Same. |
| 22 | Same. |
| 25 | Same. |
| 26 | Same. |

PROPOSED RULE MAKING

| Part No. in present regulations: | Part No. in proposed revision |
|----------------------------------|-------------------------------------|
| 27 | Deleted (included with in Part 26). |
| 28 | 8. |
| 31 | 9. |
| 32 | 10. |
| 34 | 20. |

PART I—GENERAL RULES AND REGULATIONS

| Sec. | |
|------|--|
| 1.0 | General provisions. |
| 1.1 | Definitions. |
| 1.2 | Preservation of public property, natural features and curiosities. |
| 1.3 | Camping. |
| 1.4 | Fishing. |
| 1.5 | Picnicking. |
| 1.6 | Bathing. |
| 1.7 | Sanitation. |
| 1.8 | Fires. |
| 1.9 | Protection of wildlife. |
| 1.10 | Feeding of animals. |
| 1.11 | Firearms, etc. |
| 1.12 | Radios, loud speakers, etc. |
| 1.13 | Dogs and cats. |
| 1.14 | Mountain climbing. |
| 1.15 | Collection of scientific specimens. |
| 1.16 | Archaeologic ruins and objects. |
| 1.17 | Pack trains and saddle horse parties. |
| 1.18 | Closing of areas. |
| 1.19 | Report of accidents. |
| 1.20 | Grazing and agricultural use. |
| 1.21 | Dead animals. |
| 1.22 | Begging, soliciting, etc. |
| 1.23 | Disorderly conduct. |
| 1.24 | Abandonment of property. |
| 1.25 | Lost articles. |
| 1.26 | Fraudulently obtaining accommodations. |
| 1.27 | Prospecting and mining. |
| 1.28 | Gambling. |
| 1.29 | Motion or sound pictures. |
| 1.30 | Advertisements. |
| 1.31 | Private operations. |
| 1.32 | Private lands. |
| 1.33 | Travel on trails. |
| 1.34 | Travel on roads. |
| 1.35 | Automobiles operated for pleasure. |
| 1.36 | Commercial passenger carrying motor vehicles. |
| 1.37 | Commercial trucks. |
| 1.38 | Motorcycles. |
| 1.39 | House trailers. |
| 1.40 | Permits. |
| 1.41 | Entrances and exits. |
| 1.42 | Limitations on speed. |
| 1.43 | Teams. |
| 1.44 | Right-of-way. |
| 1.45 | Following vehicles. |
| 1.46 | Brakes. |
| 1.47 | Clutches and gears. |
| 1.48 | Lights. |
| 1.49 | Sounding horn. |
| 1.50 | Muffler cut-outs. |
| 1.51 | Accidents; stop-overs. |
| 1.52 | Traffic signs. |
| 1.53 | Persons prohibited from driving. |
| 1.54 | Prevention of smoke, etc. |
| 1.55 | Excessive acceleration of engine. |
| 1.56 | Obstructing traffic. |
| 1.57 | Signals by hand and arm or signal device. |
| 1.58 | Reckless driving. |
| 1.59 | Boats. |
| 1.60 | Discrimination in furnishing public accommodations. |
| 1.61 | Aircraft. |
| 1.62 | Impounding of animals. |
| 1.63 | Public meetings and speeches. |
| 1.64 | Tampering with a parked motor-vehicle. |
| 1.91 | Penalties. |

AUTHORITY: §§ 1.0 to 1.91 issued under sec. 10, 32 Stat. 390, as amended, sec. 3, 39 Stat. 535, as amended; 43 U. S. C. 373, 16 U. S. C. 3. Interpret or apply sec. 1, 45 Stat. 1057, sec. 1, 47 Stat. 1420, 49 Stat. 2041, as amended, sec. 2, 49 Stat. 666, sec. 5, 52 Stat.

29, sec. 2, 52 Stat. 408, sec. 2, 54 Stat. 250, 55 Stat. 745; 43 U. S. C. 617, 16 U. S. C. 9a, 460a-2, 462, 4031, 460a, 460a-3, 450z.

§ 1.0 General provisions.

Except as otherwise provided in special regulations found in Part 7 of this chapter, the following regulations are hereby made and prescribed for the proper use, management, government, and protection of, and maintenance of good order in, all the national parks, national monuments, national military parks, national battlefield parks, national historical parks, national historic sites, national parkways and connected recreational areas, battlefield sites, and miscellaneous memorials which are, or hereafter may be, under the administrative jurisdiction of the National Park Service of the Department of the Interior. The rules and regulations in this part shall not apply to national cemeteries, national capital parks, or national recreation areas.

§ 1.1 Definitions.

As used in the rules and regulations in this part, unless otherwise indicated:

(a) The term "Secretary" means the Secretary of the Interior.

(b) The term "Director" means the Director of the National Park Service.

(c) The term "Regional Director" means the administrative officer in charge of a region of the National Park Service.

(d) The term "superintendent" includes a custodian, caretaker, or other person in charge of a park or monument as hereinafter defined.

(e) The term "park" includes national parks, national military parks, national battlefield parks, national historical parks, national parkways and connected recreational areas as well as Cape Hatteras National Seashore Recreational Area.

(f) The term "monument" includes National Monuments, National Historic Sites, Battlefield Sites, and miscellaneous memorials.

§ 1.2 Preservation of public property, natural features and curiosities.

(a) The destruction, injury, defacement, removal or disturbance in any manner of any public building, sign, equipment, monument, statue, marker, or other structure, or of any tree, pine cone, flower, fruit, vegetation, rock, mineral formation, stalactite, stalagmite, phenomenon of crystallization, incrustation in any lava tube, cave, steam vent, or cone, or of any animal, bird, or other wildlife, or of any ruins, earthworks, trenches, fort, relic, or of any other public property of any kind, is prohibited.

(b) No canes, umbrellas, or sticks of any kind may be taken into caves or caverns, except by special permission of the superintendent or his authorized representative. The tossing, throwing or rolling of rocks or other material inside caves or caverns, into valleys or canyons, or down hills or mountains is prohibited.

(c) Visitors may pick and eat, but not carry out of the parks and monuments, such native fruits and berries as the superintendent may designate. Fruits and berries shall be picked by hand. The use

of rakes or mechanical pickers is prohibited.

(d) The unauthorized possession of any flower or other vegetation in any park or monument is prohibited.

(e) The use or possession of any metal detecting device in the parks or monuments without special permission of the superintendent is prohibited.

§ 1.3 Camping.

(a) No camping is permitted outside the specially designated campsites, except when necessary in connection with trips to isolated sections of the parks or monuments in which case special authorization of the superintendent is required. Camping ashore when traveling by water is restricted to designated sites accessible to vessels.

(b) The superintendent may establish limitations on the time allowed for camping in any public camping areas, and upon the posting of such limitations no person, party, or organization shall be permitted to camp longer than the period limited for the particular area during any calendar year.

(c) Campers shall occupy the sites designated by the superintendent or his representative.

(d) In an emergency, the superintendent may require any camping area to be completely vacated.

(e) Campers shall keep their campsites clean. Combustible rubbish shall be burned on campfires and all other garbage and refuse of all kinds shall be placed in receptacles provided for the purpose. At new or unfrequented camps, garbage shall be burned or buried.

(f) The gathering of dead or fallen wood for fuel by campers is prohibited in those areas designated by the Superintendent by the placing of signs conspicuously at appropriate intervals in such manner as to afford the public full notice of the restriction and of the limits of the restricted area. Sequoia wood or bark shall not be disturbed for any purpose.

(g) The installation of permanent camping facilities by visitors is prohibited.

(h) The digging or leveling of the ground in any campsite without a ranger's permission is prohibited.

(i) Camps must be completely razed and the sites cleaned before the departure of campers. In dismantling camps, all material, such as poles, bark, planks, platforms, etc., used in the construction of temporary camps must be removed, and, if combustible, must be piled on the public camp woodpiles.

(j) Campers shall not leave their camps unattended for more than 48 hours without special permission of the superintendent, obtained in advance. Camping equipment left unattended in any public camping area for 48 hours or more is subject to removal by order of the superintendent, the expense of such removal to be paid by the person leaving such equipment.

(k) No camp may be established in a park or monument and used as a base for hunting outside such park or monument.

(l) No camp shall be placed within 25 feet of any water hydrant, main road, or well-defined water course.

(m) Any article likely to frighten horses shall not be hung near a road or trail used by horses.

(n) The superintendent may establish hours during which quiet must be maintained at any camp, and prohibit the running of motors at or near a camp during such hours. The word "motors" as used in this paragraph shall include motor driven power saws and motor driven electric power plants.

(o) No camping is permitted in any part of the Muir Woods National Monument, and no hikers or visitors shall enter or remain therein between one-half hour after sunset and one-half hour before sunrise.

§ 1.4 Fishing.

(a) Any person fishing in the waters of the Yosemite, Sequoia-Kings Canyon, Lassen Volcanic, Grand Canyon, Rocky Mountain, Grand Teton, Acadia, Wind Cave, Great Smoky Mountains, Shenandoah, Everglades, and Zion National Parks, and the monuments under the jurisdiction of the National Park Service, except Katmai and Glacier Bay National Monuments, must secure a sporting fishing license, as required by the laws of the State in which such park or monument, or portion thereof, is situated. Fishing in all parks and monuments shall be done in conformity with the laws of the State in which such park or monument, or portion thereof, is situated, regarding open seasons, size of fish, and the limit of catch, except as otherwise provided in the following paragraphs of this section.

(b) Fishing with nets, seines, traps, or by the use of drugs or explosives, or for merchandise or profit, or in any other way than with hook and line, the rod or line being held in the hand, is prohibited: *Provided*, That fishing with trot and throw lines in the Green and Nolin Rivers in Mammoth Cave National Park and in the Rio Grande River in Big Bend National Park is permitted: *Provided further*, That commercial fishing in the waters of Everglades National Park and Fort Jefferson, Glacier Bay, and Channel Islands National Monuments, and the use of seines for procuring bait in Mammoth Cave National Park, are permitted under special regulations.

(c) The possession of live or dead minnows, chubs, or other bait fish, or fish eggs or the use thereof as bait, or the placing or depositing of fish eggs, fish roe, food or other substance in any waters for the purpose of attracting, collecting, or feeding fish, is prohibited except in Acadia National Park, Everglades National Park, Hawaii National Park, Fort Jefferson and Channel Islands National Monuments, the Green and Nolin Rivers in Mammoth Cave National Park, and the waters of Glacier Bay National Monument in which commercial fishing is permitted in accordance with regulations approved by the Secretary of the Interior.

(d) The digging of worms for bait is prohibited in all parks and monuments.

(e) The canning or curing of fish for the purpose of transporting them out of a park or monument is prohibited.

(f) The possession of fishing tackle or fish upon or along any waters closed to

fishing shall be *prima facie* evidence that the person or persons having such fishing tackle or fish are guilty of unlawful fishing in such closed waters.

(g) State fishing licenses and all fish taken must be exhibited upon demand to any person authorized to enforce the provisions of the regulations in this chapter.

§ 1.5 Picnicking.

(a) The superintendent may establish reasonable limitations on the time during which any person or group of persons may use any picnicking facility when, in his judgment, such limitations are necessary for the accommodation of the visiting public.

(b) Picnicking or the eating of lunches is prohibited in restricted areas designated by the superintendent.

(c) The superintendent may prohibit the playing of games within the parks or monuments when in his opinion such activity is detrimental or inappropriate.

§ 1.6 Bathing.

(a) Bathing in any of the streams or lakes near the regularly traveled thoroughfares, without proper bathing clothes, is prohibited.

(b) Bathing in particular waters may be prohibited by the superintendent when, in his judgment, such action is necessary for the protection of bathers or of water supplies.

(c) Swimming from unanchored boats is prohibited in the park areas. All children under the age of 12 years, when in the water shall wear approved life preservers; water skiers, when in tow, shall wear life belts or life preservers.

§ 1.7 Sanitation.

(a) Campers and others shall not wash clothing or cooking or eating utensils in, or pollute in any other manner, the waters of the parks or monuments.

(b) The cleaning of fish or the washing of clothing at campground hydrants is prohibited.

(c) Garbage, papers, or refuse of any kind shall not be thrown or left on or along roads, in camping or picnic areas, or on any other park or monument lands.

(d) Contamination of watersheds, of water supplies, or of any water used for drinking purposes, is prohibited.

(e) All comfort stations shall be used in a clean and sanitary manner.

(f) The draining or dumping of refuse from any trailer, except in places or receptacles provided for such purpose, is prohibited except in certain areas where the superintendent may grant special permission.

(g) Saddle, pack, or draft animals shall not be kept in or near any camping area. No such animals shall be kept on the floor of the Yosemite Valley except in the operator's corral. All privately owned horses traveling through Glacier National Park must be stabled at the operator's corral when they are kept in the vicinity of developed areas.

(h) Garbage, litter or other waste shall not be dropped or thrown from vessels into park waters but shall be disposed of on shore at designated locations, in a manner prescribed by the superintendent.

PROPOSED RULE MAKING

(i) Wastes from toilets or galleys of vessels shall not be discharged within one-half mile of the low water line along any shore, or one-half mile from any water supply intake, and the superintendent may restrict any water area if a public health hazard develops or deterioration of esthetic value becomes apparent.

§ 1.8 Fires.

(a) Fires shall not be kindled near or on the roots of trees, dead wood, moss, dry leaves, forest mold, or other vegetable refuse, but in some open space on rocks or earth. On public camp grounds the regular fireplaces constructed for the convenience of visitors must be used. Should camp be made in a locality where no such open space exists or is provided, the dead wood, moss, dry leaves, etc., shall be scraped away to the rock or earth over an area considerably larger than that required for the fire.

(b) Fires shall be lighted only when necessary and, when no longer needed, shall be completely extinguished, and all embers and beds smothered with earth or water, so that there remains no possibility of reignition.

(c) Permission to burn on any cleanup operation within the parks or monuments must first be obtained in writing from the office of the superintendent, and in such cases as it is deemed advisable such burning will be under Government supervision. All costs of suppression and all damage caused by reason of loss of control of such burning operations shall be paid by the person or persons to whom such permit has been granted.

(d) No lighted cigarette, cigar, pipe heel, match, or other burning material shall be thrown from any vehicle or saddle animal or dropped into any grass, leaves, twigs, tree mold, or other combustible or inflammable material.

(e) The superintendent may, during such periods of time as he may prescribe, prohibit smoking on any lands, including roads, which he may designate.

(f) The building of fires on any lands within the parks or monuments may be prohibited or limited by the superintendent when, in his judgment, the hazard makes such action necessary.

(g) All persons making trips away from established camps are required to obtain written fire permits from the nearest ranger before building camp fires.

(h) The use of fireworks or fire-crackers in the parks and monuments is prohibited, except with the written permission of the superintendent.

§ 1.9 Protection of wildlife.

(a) The parks and monuments are sanctuaries for wildlife of every sort, and all hunting, or the killing, wounding, frightening, capturing or attempting to kill, wound, frighten, or capture at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited.

(b) Unauthorized possession within a park or monument of the dead body or any part thereof of any wild bird or animal shall be prima facie evidence that the

person or persons having the same are guilty of violating this section.

(c) The carcasses of animals or birds or parts thereof, unlawfully taken or possessed within a park or monument, shall be seized and shall be disposed of as the superintendent may prescribe.

(d) During the hunting season, arrangements must be made at entrance stations to identify and transport through the parks and monuments, where necessary, the carcasses of birds or animals legally killed outside the parks and monuments. Failure to make such arrangements shall be deemed a violation of this section.

§ 1.10 Feeding of animals.

The feeding, touching, teasing, or molesting of any of the native birds, mammals, or reptiles is prohibited.

§ 1.11 Firearms, etc.

(a) Explosives, traps, seines, hand thrown spears, nets (except landing nets following the capture of fish by the authorized rod and hook-and-line), and loaded or assembled firearms, including air pistols and rifles and blow guns using CO₂ gas cartridges, bows and arrows or cross bows, and other implements designed to discharge missiles in the air or under water capable of destroying animal life, are prohibited within the parks and monuments, except upon the written permission of the superintendent, or his authorized representative, unless they are adequately sealed, cased, broken down, or otherwise packed in such a way as to prevent their use while in the areas: *Provided, however,* That visitors entering the parks and monuments, or traveling through them to places beyond, shall, at entrance, report all such objects in their possession and, if required to do so in the interest of special park protective measures, surrender them to the first park or monument officer whom they encounter. Such objects as may be surrendered will be returned to the owners upon their departure from the area. The park or monument officers are not authorized to accept the responsibility or custody of any other property for the convenience of visitors.

(b) The superintendent may, in his discretion, permit the carrying of firearms by employees under his administrative jurisdiction when such possession is deemed necessary in the performance of their official duties.

(c) At the discretion of the superintendent, approved guides in charge of pack trains or saddle horse parties may be permitted to carry unsealed firearms.

(d) Authorized law enforcement officers may carry unsealed firearms within the parks and monuments while engaged in the enforcement of Federal or State laws and regulations, or when otherwise necessary in the performance of their duties.

(e) The members of the armed forces of the United States shall be permitted to carry unsealed firearms; and, in the discretion of the superintendent, members of the armed forces of the several states or friendly foreign nations may be permitted to carry unsealed firearms. The provisions of this paragraph shall be applicable only during time of war in which the United States is engaged.

§ 1.12 Radios, loud speakers, etc.

(a) The use of radios or television sets in public camps, hotels, or other buildings, or in automobiles, is prohibited when audible beyond the immediate vicinity of the radio or television set. Radios or television sets shall not be operated to the annoyance of other persons, nor so as to disturb the quiet of camps or other public places. The erection of aerials or other radio or television installation is prohibited.

(b) The use of loud speakers or public address systems, whether fixed or portable, on lands or highways in the parks and monuments is prohibited without first securing written permission from the superintendent.

§ 1.13 Dogs and cats.

(a) Dogs and cats are prohibited on the Government lands in the parks and monuments unless such animals are on leash, crated, or otherwise under physical restrictive control at all times: *Provided, however,* That the superintendent may designate areas to which dogs and cats shall not be admitted: *Provided further,* That in special cases, the Director may authorize the keeping of dogs and cats by residents in a park or monument under such conditions as he may prescribe.

(b) Stray dogs or cats running at large in the parks and monuments, and dogs found in the act of pursuing wildlife, may be killed to prevent molestation of the wildlife therein.

(c) In Mount McKinley National Park, dogs may be used for hauling, with the permission of the superintendent, and subject to the following rights and restrictions:

(1) In winter, prospectors and miners may use such dogs as may be necessary for a reasonable time for heavy hauling of supplies, fuel, timber, and other objects; thereafter each person is limited to seven dogs. In summer, no dogs are allowed except in special cases. In no case nor at any time shall litters or pups be raised in the park except by special permission of the superintendent. Persons entering the park with dogs must register at McKinley Park entrance, Katishna entrance, or the nearest ranger station, giving such information as may be required by the superintendent.

§ 1.14 Mountain climbing.

(a) In Mount McKinley, Mount Ranier, Grand Teton, Grand Canyon, and Sequoia National Parks, mountain climbing shall be undertaken only with the permission of the Superintendent.

(b) In Devils Tower National Monument, the climbing of any portion of the Tower, including the talus slopes, shall be undertaken only with the permission of the Superintendent.

(c) In Mount Rushmore National Memorial, climbing beyond the toe of the talus slope shall be undertaken only with the permission of the Superintendent.

(d) In Rocky Mountain National Park, climbing in that area on the east face of Longs Peak, known as the Diamond, shall be undertaken only with the permission of the Superintendent.

(e) The Superintendent shall not grant permission under paragraph (a) or (b) or (c) or (d) of this section until

he is satisfied that all members of the party are properly clothed, equipped, and shod, are qualified physically and through previous experience to make the climb, and that the necessary supplies are carried.

(f) No individual will be permitted to start a solo climb or continue to climb alone on Mount McKinley, Mount Rainier, or any major peak in Grand Teton National Park, or Devils Tower, or beyond the toe of the talus slope in Mount Rushmore National Memorial, or on the Diamond area on Longs Peak in Rocky Mountain National Park, or major cliff or butte in Grand Canyon National Park.

(g) While the Government assumes no responsibility in connection with any kind of accident to mountain-climbing parties, all persons starting to climb Mount McKinley, Mount Rainier, or any major peak in Grand Teton National Park or Devils Tower, or beyond the toe of the talus slope in Mount Rushmore National Memorial, or on the Diamond area on Longs Peak in Rocky Mountain National Park, shall fill out an information blank furnished by the Superintendent and shall report to him upon return.

(h) When the Superintendent deems such action necessary, he may prohibit all mountain climbing in the areas referred to in paragraphs (a), (b), (c), or (d) of this section.

§ 1.15 Collection of scientific specimens.

Collection of natural objects for scientific or educational purposes shall be permitted only in accordance with written permits first had and obtained from the superintendent. No permits will be issued to individuals or associations to collect specimens for personal use, but only to persons officially representing reputable scientific or educational institutions in procuring specimens for research, group study, or museum display. Permits will be issued only on condition that the specimens taken will become part of a permanent public museum or herbarium collection, or will in some suitable way be made permanently available to the public. No permits may be granted for the collection of specimens the removal of which would disturb the remaining natural features or mar their appearance. Permits to secure rare natural objects will be granted by the Director only upon proof of special need for scientific use and of the fact that such objects cannot be secured elsewhere.

§ 1.16 Archaeologic ruins and objects.

(a) Permits for the examination of cliff ruins, the excavation of archaeological sites, and the gathering of objects of antiquity will be granted only to reputable museums, universities, colleges, or other recognized scientific or educational institutions, or to their duly authorized agents, upon application to the Secretary.

(b) Visitors shall not remove any artifacts or other objects of archaeological or historical significance from the place where they may be found, nor purchase any such objects from Indians or others. Any such objects purchased or removed in violation of this section shall be deliv-

ered to the superintendent or his representative on demand.

(c) Visitors shall not be permitted to visit the cliff dwellings in Mesa Verde National Park unless accompanied by National Park Service employees. The superintendent may waive this requirement by issuing a special written permit to persons engaged in scientific studies.

(d) Visitors shall not be permitted to enter the canyons in Canyon de Chelly National Monument unless accompanied by National Park Service employees or authorized guides. The superintendent may, in his discretion, issue permits to properly qualified persons to act as guides for the purpose of accompanying visitors within the canyons.

(e) The superintendent may prohibit the public from entering or exploring any ancient ruins or other archaeological features of the park or monument under his supervision when in his judgment such entrance or exploration will tend to destroy or endanger such ruins or features: *Provided*, That the superintendent may issue special written permits to qualified persons to visit such places for the purpose of making scientific observations upon condition that no artifacts or other objects or features shall be removed or in any way disturbed.

§ 1.17 Pack trains and saddle horse parties.

(a) No pack train or saddle horse party shall be allowed in Crater Lake, Glacier, Grand Canyon, Hawaii, Mesa Verde, Mount McKinley, Mount Rainier, Olympic, Rocky Mountain, Yellowstone, Yosemite, Zion and Bryce Canyon National Parks, unless in charge of an approved guide. Guides may be required to pass an examination prescribed by the superintendent. Prospectors and miners in Mount McKinley National Park, and Death Valley National Monument, are excepted from the provisions of this paragraph.

(b) No person may pass through or camp in any of the parks, except Olympic, Yellowstone, Sequoia-Kings Canyon, Glacier, Rocky Mountain, and Grand Teton National Parks, using animals or camp equipment not hired from the authorized operators of saddle horse service, where such service is established at the park under contract with the Secretary, unless the animals and equipment belong to a member or members of the party, and unless the other members are not renting, or in any way paying for the use of the animals or equipment, and unless the owners are not making the trip under any lease arrangement, and unless the written permission of the Director or the superintendent that such are the facts.

(c) To conduct or operate, or to cause to be conducted or operated, a saddle horse party into, or to act as guide for any purpose within any of the parks mentioned in paragraph (a) of this section, without the written permission of the Director or the superintendent, is prohibited; and the person or persons so conducting, operating, or causing to be conducted or operated, or acting as guide shall be subject to the penalties prescribed by law for violation of the regulations in this part.

(d) No saddle horses shall be permitted in the Muir Woods National Monument.

§ 1.18 Closing of areas.

The superintendent may, during any period of emergency, close to public use all or any part of the park, or monument.

§ 1.19 Report of accidents.

(a) All accidents of whatever nature shall be reported as soon as possible by the person or persons involved, to the superintendent or at the nearest ranger station.

(b) In the case of motor vehicle accidents, the vehicle or vehicles involved shall not be moved until the investigating officer arrives at the scene unless the vehicle or vehicles constitute a definite traffic hazard.

§ 1.20 Grazing and agricultural use.

(a) The running at large, herding, driving across, or grazing of livestock of any kind on the Government lands in the parks and monuments, or the use of such lands for agricultural purposes, is prohibited, except where authority therefor has been granted pursuant to a revocable permit issued by an authorized officer or employee of the National Park Service. Applications for such authorization may be addressed to the superintendent of the area involved.

(b) Paragraph (a) of this section is subject to the exception contained in the act of Congress approved September 14, 1950 (64 Stat. 849), relating to grazing in Grand Teton National Park, and to the exception contained in the act of Congress approved February 14, 1931 (46 Stat. 1161), reserving to the Navajo Tribe of Indians the right to the surface use of lands in the Canyon de Chelly National Monument for agriculture, grazing, or other purposes, and to the exception contained in the act of February 28, 1919 (40 Stat. 1175) relating to the use of certain lands in Grand Canyon National Park by the Havasupai tribe of Indians.

(c) No authority may be granted for grazing in Yellowstone National Park.

§ 1.21 Dead animals.

All domestic or grazed animals that may die on any Government lands in the parks or monuments shall be removed immediately, or buried immediately by the owner or person having charge of such animals, at least two feet beneath the ground, and in no case less than one-fourth mile from any camp, thoroughfare, or source of water supply. The Superintendent or his authorized representative may issue special instructions for the disposal of dead animals.

§ 1.22 Begging, soliciting, etc.

(a) Begging is prohibited within the parks and monuments.

(b) Hitch-hiking is prohibited within the parks and monuments.

(c) Drumming and soliciting within the Hot Springs National Park for any physician, surgeon, or any person publicly professing to relieve, cure, or heal, or for any bathhouse receiving water from the Hot Springs National Park are prohibited.

PROPOSED RULE MAKING

§ 1.23 Disorderly conduct.

Persons who render themselves obnoxious by disorderly conduct or bad behavior, or who are under the influence of intoxicating liquor, narcotics or habit forming drugs, shall be subject to the penalties hereinafter prescribed for violation of the regulations in this part, and in addition thereto, or in lieu thereof, may be summarily removed from the park or monument by the superintendent.

§ 1.24 Abandonment of property.

The abandonment of any personal property in the parks and monuments is prohibited.

§ 1.25 Lost articles.

Persons finding lost articles should deposit them at the office of the superintendent, or at the nearest ranger station, leaving their own names and addresses, so that if the articles are not claimed by the owners within 60 days, they may be turned over to those who found them.

§ 1.26 Fraudulently obtaining accommodations.

The obtaining of food, lodging, or other accommodations in the parks and monuments, with intent to defraud, is forbidden, and such fraudulent intent will be presumed from refusal or neglect to pay therefor on demand, or payment therefor, with negotiable paper on which payment is refused, or absconding without paying or offering to pay therefor, or false or fictitious showing or pretense of baggage or other property, or surreptitious removal or attempted removal of baggage.

§ 1.27 Prospecting and mining.

Prospecting and the location of mining claims on Government owned lands within the parks and monuments are prohibited, except that in Mount McKinley National Park, Organ Pipe Cactus, Death Valley and Glacier Bay National Monument, prospecting and mining may be prosecuted under special regulations prescribed by the Secretary. The act of February 14, 1931 (46 Stat. 1162; 16 U.S.C. sec. 445a), reserves to the Navajo Tribe of Indians the mineral rights in the Canyon de Chelly National Monument.

§ 1.28 Gambling.

Gambling in any form, or the operation of gambling devices, whether for merchandise or otherwise, is prohibited.

§ 1.29 Motion or sound pictures.

Before any motion or sound picture, needing a script, cast, schedule, or "props", may be filmed in any park or monument, except by amateurs and bona fide news reel photographers, authority must first be obtained, in writing, from the superintendent, which authority will be granted, in the discretion of the superintendent, under special regulations prescribed by the Secretary.

§ 1.30 Advertisements.

Private notices or advertisements shall not be posted, distributed, or displayed in the parks or monuments, excepting such

as the superintendent may deem necessary for the convenience and guidance of the public.

§ 1.31 Private operations.

(a) *Permits.* (1) No person, except National Park Service employees or other persons authorized to do so by law, shall reside permanently on federally owned lands within any park or monument except where authority therefor has been granted pursuant to a revocable permit issued by an authorized officer or employee of the National Park Service.

(2) No person, firm, or corporation shall engage in or solicit any business or erect or maintain buildings or other structures on federally owned lands within any park or monument except when authority therefor has been granted pursuant to a revocable permit issued by an authorized officer or employee of the National Park Service.

(3) No person, firm, or corporation shall construct, or attempt to construct, a telephone line, telegraph line, power line, or other private or public utility over, through, or under any federally owned land within any park or monument except where authority therefor has been granted pursuant to a revocable permit issued by an authorized officer or employee of the National Park Service.

(4) No person, firm, or corporation shall construct, or attempt to construct, a road, trail, path, or other way, over, across, or upon any federally owned land within any park or monument except where authority therefor has been granted pursuant to a revocable permit issued by an authorized officer or employee of the National Park Service.

(b) *Application for permit.* Applications for such authorization may be addressed to the superintendent of the area involved.

§ 1.32 Private lands.

(a) Owners of private lands, including Indian lands owned either individually or tribally, within the limits of any park or monument are entitled to the full use and enjoyment thereof, subject to any regulations by the Secretary specifically relating to such private lands; the boundaries of such lands, however, shall be determined, marked, and defined, so they may be readily distinguished from the park or monument lands.

(b) Private owners shall provide against trespass by their livestock upon lands of the parks or monuments, and owners and persons in charge of trespassing livestock shall be subject to the penalties provided by law for violation of the regulations in this part.

(c) Stock may be taken over the lands of parks and monuments with the written permission and under the supervision of the superintendent, but such permission and supervision are not required when access to such private lands is had wholly over roads or lands not owned or controlled by the United States.

(d) No person shall maintain a nuisance upon private lands within a park or monument.

(e) The provisions of §§ 1.7 (a), (d), and 1.8 (a), (b), (c), (d), (f), (h), are applicable to private lands within all parks and monuments.

§ 1.33 Travel on trails.

(a) Pedestrians on trails shall remain quiet when saddle or pack animals are passing.

(b) Persons traveling on the trails, either on foot or on saddle animals, shall not make short cuts, but shall confine themselves to the established trails and they shall abide by all posted official instructions on the trails.

(c) Any or all roads and trails may be closed to public use by order of the superintendent when, in his judgment, conditions make travel thereon hazardous or dangerous, or when such action is necessary to protect the parks or monuments.

(d) The loose herding of pack and saddle animals on park trails is prohibited: *Provided*, That the superintendent may permit such loose herding on hazardous trails, or portions thereof, designated by him.

(e) Motorcycles, or other motor vehicles or bicycles, shall not be operated upon trails.

§ 1.34 Travel on roads.

(a) Saddle horses, pack trains, and horse-drawn vehicles have right-of-way over motor-propelled vehicles at all times.

(b) Horseback travel over automobile roads is prohibited except where such travel is necessary for ingress to and egress from privately owned property in the parks or monuments, or incidental to authorized trail trips.

(c) Pack trains and saddle horse parties are prohibited from using oil-surfaced roads. Where, in emergencies, it becomes necessary for such pack trains or saddle horse parties to travel along oil-surfaced roads, such travel shall be confined to the unoiled shoulders of the roads.

(d) Any person or persons riding saddle animals, or leading animals of any kind through any tunnel, shall display a light upon the approach of any vehicle.

(e) No vehicle shall be operated outside the roadways or designated parking areas.

(f) Load and weight limitations shall be those prescribed from time to time by the superintendents, and shall be complied with by the operators of all vehicles using the roads of the parks and monuments. Schedules showing weight limitations for the different roads may be seen at the offices of the superintendents and at ranger stations at entrances.

(g) There shall not be operated or moved upon any road any vehicle of any kind the face of wheels or tracks of which are fitted with flanges, ribs, clamps, cleats, lugs, spikes, or any device which may tend to injure the roadway. This section applies to all rings or flanges upon guiding or steering wheels on any such vehicles, but it shall not be construed as preventing the use of ordinary detachable tire or skid chains.

(h) The superintendent may establish the hours during which any of the roads shall be open to the public, and the direction of travel thereon. During any period of emergency the superintendent may prescribe such other conditions regarding travel as may, in his judgment,

appear necessary. Information regarding such hours, direction, and conditions of travel may be obtained upon application at the office of the superintendent, or at the ranger stations.

(i) In Acadia National Park, no motor vehicles are permitted on any road specially marked, designated or constructed for horse-drawn vehicular traffic except for general road and roadside maintenance, repair and construction purposes, fire fighting, or in case of accident.

§ 1.35 Automobiles operated for pleasure.

The parks and monuments where common carrier service is established under authorization and supervision of the Government are open to automobiles, operated for pleasure, including rental cars, provided the party using a rental car does not hire also the services of a driver. Admission under this section will be accorded such pleasure cars upon payment of the usual automobile permit fee for the particular park.

§ 1.36 Commercial passenger-carrying motor vehicles.

(a) The use of the Government roads by all operators of commercial passenger-carrying motor vehicles, except by those holding a contract from the Secretary for a particular park or monument, is prohibited in Yellowstone (except that portion of U.S. Highway 191 traversing the northwest corner of the park), Yosemite, Sequoia-Kings Canyon, Mount Rainier (except Highway No. 5, U.S. 410), Crater Lake, Glacier (except that portion of the park road from the Sherburne Entrance to the Many Glacier area), Rocky Mountain, Grand Teton (except that portion of Highways Nos. 89 and 187, 287 and 26 commencing at the south boundary of the park and running in a northerly direction to the east boundary of the park), Grand Canyon (except the service road branch of the south entrance road serving park headquarters and Grand Canyon Village, including the portion of the south entrance road which lies between the park boundary and said service road), Zion, Lassen Volcanic (except those portions of Highway No. 89 and Highway No. 44 crossing the northwest corner of the park outside the Manzanita Lake checking station), Mount McKinley (except that portion of the Denali Highway between the Nenana River and the McKinley Park Hotel), and Bryce Canyon National Parks, and Cedar Breaks National Monument: *Provided*, That such motor vehicles operated under the following conditions may be admitted to the foregoing parks and monuments upon a satisfactory showing to the Superintendent or his representative that the conditions of operation are within the following exceptions and upon the following conditions:

(1) Commercial passenger-carrying motor vehicles carrying only members of educational, welfare, and scientific organizations, such as boy scouts, accredited schools and universities, or bona fide mountaineering organizations shall not be deemed commercial within the meaning of this section when the trip to a park or parks is initiated, organized

and directed by such organization. Motor vehicles on such trips will be admitted to the parks without charge other than the usual automobile permit fee charged at the particular park only when credentials from the head of such institution or organization are shown to the effect that the visit is initiated, organized and directed by the particular institution or organization. Motor vehicles on trips for which passengers are solicited for the profit of the organization or the transportation operator will not be admitted under this classification.

(2) Commercial passenger-carrying motor vehicles rented or chartered by an organization or group of individuals associating themselves for a general tour on which the visit to a park or parks is an incident to such tour shall not be deemed commercial within the meaning of this section, provided that the tour is not organized, advertised, or sold to passengers by an organization or an individual for personal profit. Admission to each park will be accorded to such tours upon payment of a special tour permit fee in addition to the usual automobile permit fee charged at the parks visited. The special fee shall be for one entrance to a park only.

(3) Commercial passenger-carrying motor vehicles will be admitted to Yellowstone National Park for the purpose of delivering passengers to a point of stay while in the park provided they are being operated on a general, infrequent, and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, subject to the conditions set forth in this paragraph. After passengers have completed their stay, such motor vehicles shall leave the park by the most convenient exit station, considering their destination. Motor vehicles admitted to the park under this paragraph shall not, while in the park, engage in general sightseeing operations. Admission will be accorded such vehicles upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside the park, pursuant to contract authorization from the Secretary. The Superintendent shall have the authority to specify the route to be followed by such vehicles within the park. Admission to the park will be accorded such motor vehicles upon payment of a special tour permit fee.

(4) Commercial passenger-carrying motor vehicles will be admitted to Sequoia-Kings Canyon, Mount Rainier, Crater Lake, Rocky Mountain, Grand Teton, North Rim of Grand Canyon, Zion, Lassen Volcanic, Bryce Canyon, and Mesa Verde National Parks, and Cedar Breaks National Monument provided they are being operated on a general, infrequent, and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour. Admission will be accorded such vehicles upon establishing to the satisfaction of the Superin-

tendent that the tour originated from such place and in such manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside the park pursuant to contract authorization with the Secretary. Admission will be accorded such motor vehicles upon payment of a special tour permit fee at each park visited.

(b) Motor vehicles that are so large as to require motorcycle escort in order to proceed safely over park roads, or which in the judgment of the superintendent are beyond the carrying capacity or safety factor of the roads, will not be permitted in the parks, except that where they may satisfactorily enter park headquarters they may be parked there during the period of stay.

(c) All permit fees required by this section shall be in accordance with schedules contained in § 6.3 of this chapter, and shall be paid at the park entrance upon arrival.

§ 1.37 Commercial trucks.

(a) The term "commercial truck" as used in this section shall include but not be limited to trucks, station wagons, pickups, passenger cars or other vehicles used for rental or used in transporting movable property for a fee or profit, either as a direct charge to a second party, or as an incident to other services provided to a second party or in connection with any business.

(b) The use of the Government roads of any park or monument by commercial trucks, when such trucking is in no way connected with the operation of the park or monument, is prohibited, except that in emergencies special trucking permits may be issued by the superintendent, for which a fee will be charged. (The schedule of commercial trucking fees is to be found in Part 6 of this chapter.)

(c) The superintendent may, in his discretion, issue permits without charge for trucks used on Government roads in connection with private lands situated within the boundaries of the park or monument.

(d) Trucking over roads which are officially posted indicating no trucking is allowed shall be deemed a violation of this section.

§ 1.38 Motorcycles.

Motorcycles are admitted to the parks and monuments under the same conditions as automobiles, and are subject to the same regulations so far as they are applicable.

§ 1.39 House trailers.

(a) House trailers are admitted to the parks and monuments under the same conditions as automobiles, except that, in the discretion of the superintendent, they may be required to occupy separate camping areas.

(b) The superintendent may, in his discretion, exclude trailers during the winter season when camp grounds are closed.

§ 1.40 Permits.

(a) (1) No motor vehicle or house trailer may be operated without a permit

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in any park or monument where a permit is required. The permit must be carried in the motor vehicle or trailer for which issued and exhibited upon request to any officer authorized to enforce the regulations in this chapter. Permits are issued upon payment of the required fee for individual motor vehicles or trailers, and may not be transferred to another motor vehicle or trailer under any circumstances and are good only in the park or parks or monuments for which the permits are issued.

(2) A house trailer within the meaning of the regulation in this part is defined as a noncollapsible trailer specifically designed and built to provide sleeping accommodations for one or more persons.

(b) In Shenandoah National Park trip permits good only on the day issued may be obtained.

(c) The issuance of a yearly permit for a house trailer confers no right to occupy any camping area for a period longer than that prescribed by the superintendent.

(d) Nothing in the regulations in this part shall be construed so as to interfere with the free public use of Lee Highway or Spotswood Trail in Shenandoah National Park or U. S. Highways Nos. 66 and 260 in Petrified Forest National Monument. The provisions of §§ 1.35 to 1.40 of this part, inclusive, are not applicable to traffic on the Mineral Kings Road in Sequoia National Park, U. S. Highway No. 410 in Mount Rainier National Park.

§ 1.41 Entrances and exits.

(a) Automobiles, trucks, and other vehicles shall enter or leave the parks and monuments only at regular designated entrances and exits, and between such hours as shall be determined by the superintendent and indicated by official signs posted for that purpose.

(b) All vehicles shall come to a full stop at entrance and exit stations.

§ 1.42 Limitations on speed.

(a) Limitations on speed of vehicles except in emergencies as provided in paragraph (b) of this section are as follows:

(1) Basic speed rule:

(i) No person shall drive a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the highway, the hazard at intersections, and any other condition then existing.

(ii) No person shall drive at a speed which is greater than will permit the driver to exercise full control of the vehicle and to decrease speed or to stop as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and with the duty of drivers and other persons using the highways to exercise due care.

(2) 15 miles per hour:

(i) In all campgrounds, parking areas, and places of public assemblage.

(ii) Upon that portion of the highway which passes through or borders upon a scene of emergency such as forest fires, highway repairs or construction, automobile accidents, or similar emergency.

(iii) In any business or residence area.

(iv) Upon approaching within 50 feet and, in traversing an intersection of highways where the driver's view in either direction along any intersecting highway within a distance of 200 feet is obstructed, except that when traveling upon a through highway or at a traffic controlled intersection, the district speed applies.

(3) 45 miles per hour upon all other paved public roads except when official signs are posted indicating a lesser speed limit.

(4) Whenever the Superintendent shall determine upon the basis of an engineering and traffic investigation that any *prima facie* speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist on any road or other place, the Superintendent may determine and declare a reasonable and safe *prima facie* speed limit thereat, not in excess of 45 miles per hour, which shall be effective on such roads or other places, when appropriate signs giving notice thereof are erected by the Superintendent on such roads or other places.

(5) Any speed in violation of the speeds designated in subparagraphs (2), (3) and (4) of this paragraph shall be *prima facie* evidence of violation of subparagraph (1) of this paragraph.

(b) The provisions of this section shall not apply to any vehicle when driven or operated in an emergency for the protection or preservation of life, health, or for public safety: *Provided*, That this paragraph shall not be so construed as to authorize any such vehicle to be driven or operated at a rate of speed in excess of that which is reasonable under conditions prevailing at such time.

(c) As used in this section, the term "vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway.

(d) The limitation on maximum speed prescribed in this section shall control over any special regulation contained in Part 2 or Part 7 of this chapter, except as follows:

§ 2.20 Lake Mead, Coulee Dam and Shadow Mountain.

§ 7.5 Mount Rainier National Park.

§ 7.13 Yellowstone National Park.

§ 7.22 Grand Teton National Park.

§ 7.43 Natchez Trace Parkway.

§ 7.58 Cape Hatteras National Seashore.

§ 1.43 Teams.

When teams, saddle horses, or pack trains approach, motor vehicles shall be so manipulated as to allow safe passage for the other party. In no case shall motor vehicles pass such animals on the road at a greater speed than 10 miles per hour, or in such a manner or with such noise as to frighten them.

§ 1.44 Right-of-way.

(a) Any vehicle traveling slowly on any of the roads, when overtaken by a faster moving motor vehicle, and upon suitable signal from such overtaking vehicle, shall move to the right to allow a safe passage.

(b) When automobiles going in opposite directions meet on a grade, the ascending machine has the right-of-way.

and the descending machine shall be backed or otherwise handled as may be necessary to enable the ascending machine to pass in safety.

§ 1.45 Following vehicles.

Except in slow moving traffic, a vehicle shall not follow another vehicle closer than 50 feet, nor closer than 15 feet at any time. The responsibility for conformance with this section rests with the driver of the following vehicle.

§ 1.46 Brakes.

Every motor vehicle, or combination of motor vehicle and trailer, shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle or combination of vehicles.

§ 1.47 Clutches and gears.

No motor vehicle shall be operated on any highway with clutch disengaged or gear out of mesh except for the purpose of changing or shifting gears or stopping or while being towed. When such vehicle is equipped with commercial free wheeling devices, such devices shall be "locked out" when traveling upon down grades or when parking the vehicle.

§ 1.48 Lights.

(a) Every motor vehicle other than a motorcycle shall be equipped with two headlights and one or more red taillights. Trailers and semi-trailers shall be similarly equipped with red taillights. In addition every motor vehicle, semi-trailer or trailer shall carry at the rear a white light to illuminate the license plate so that the number is visible for a distance of 50 feet to the rear of such vehicle, at night.

(b) Every motorcycle shall be equipped with at least one headlight and one red taillight.

(c) Every bicycle upon a highway during the times when lights are required shall exhibit a white light on the front and a red light on the rear, except that a red reflector may be used in lieu of a rear light.

(d) Every horse-drawn vehicle upon a highway during the times when lights are required shall exhibit at least one white light on the left side in such manner as to be readily and distinctly seen from both front and rear.

(e) All lights shall be of sufficient brilliance to insure safety in driving at night. All lights shall be lighted during the period from one-half hour after sunset to one-half hour before sunrise when the vehicle is on a road, at all times when passing through unlighted tunnels, and at any other time when there is not sufficient natural light to render clearly discernible a person or object at least 200 feet ahead. Headlights shall be dimmed, depressed or tilted when meeting other vehicles, riding or driving animals, bicyclists, or pedestrians, and when approaching another vehicle from the rear.

(f) The use of red lighting devices of any character on the front of any vehicles, except highway patrol cars, highway maintenance vehicles, ambulances, fire trucks, and snow plows, is prohibited.

(g) All vehicles parked along the roadside after dark shall have "parking" and

"tail" lights lighted, or approved lighted flares or reflectors placed front, rear and on the roadway side of the vehicle.

§ 1.49 Sounding horn.

The horn shall be sounded on approaching sharp curves or other places where the view ahead is obstructed, or before passing other vehicles or pedestrians, or, if necessary, before passing riding or driving animals.

§ 1.50 Muffler cut-outs.

(a) Every motor vehicle operated in the parks or monuments shall be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise.

(b) Every vessel operating in park waters which is propelled by internal combustion engines shall be equipped with a muffler so constructed as to prevent any unnecessary, intense or prolonged noise in the operation or management of such vessel and the said muffler shall not be removed, cut out, or put out of operation for any purpose whatever, except during regattas. Nothing in this section shall apply to vessels equipped with underwater exhausts or to vessels discharging water through open exhaust pipes so long as these methods of silencing the exhaust are effective.

§ 1.51 Accidents; stop-overs.

If vehicles stop because of accident or other emergency, they shall be immediately parked in such a way as not to interfere with travel on the road.

§ 1.52 Traffic signs.

Drivers of all vehicles shall comply with the directions of all official traffic signs posted in the parks and monuments.

§ 1.53 Persons prohibited from driving.

(a) No person shall drive a motor vehicle in a park or monument unless such person has a valid operator's license: *Provided*, That any person who is a resident of a State, district, territory, or foreign country which does not require the licensing of operators may drive a motor vehicle if such person is at least 15 years of age. The provisions of this paragraph shall not apply to employees of other Federal agencies or of States or territories or their political subdivisions operating motor vehicles on official business. Employees of the Department of the Interior shall be governed by the "Motor Vehicle Regulations and Safe Driving Practices of the Department of the Interior."

(b) No person who is under the influence of intoxicating liquor or narcotic drugs or tranquilizers shall drive a motor vehicle of any kind in a park or monument.

§ 1.54 Prevention of smoke, etc.

The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

§ 1.55 Excessive acceleration of engine.

The excessive acceleration of the engine of a motor vehicle while such vehi-

cle is not moving, or is approaching a stopping place, is prohibited.

§ 1.56 Obstructing traffic.

No person shall cause or permit a motor vehicle under his control to obstruct traffic by making right or left turns from the wrong traffic lane or by weaving in and out of traffic, or by stopping on the roadway to photograph objects or animals or by driving so slowly as to interfere with the normal flow of traffic or in any other manner.

§ 1.57 Signals by hand and arm or signal device.

No person driving a motor vehicle shall fail to give proper hand signals or confuse other motorists by false signals or unnecessary extension of the hand or arm outside the vehicle. The following signals shall be given by extending the hand and arm from the left side in the following manner:

(a) Left turn. Hand and arm extended horizontally.

(b) Right turn. Hand and arm extended upward.

(c) Stop or decrease speed. Hand and arm extended downward:

Provided, however, That in lieu of such hand signals, signals may be given by a signal lamp or signal device which conveys an intelligible signal or warning to another driver approaching from the front or rear.

§ 1.58 Reckless driving.

The driving of any vehicle upon a Government road in a park or monument carelessly and heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and at a speed or in a manner so as to endanger or be likely to endanger any person or property is prohibited.

§ 1.59 Boats.

(a) The Superintendent may require the issuance of a permit before any vessel is placed in or allowed to operate upon the waters of any park. He may specify locations and conditions under which vessels may operate and shall have authority to revoke the permit and require the immediate removal of such vessel upon failure of the permittee to comply with the terms and conditions of the permit.

(b) No vessel primarily designed and used for floating living quarters commonly referred to as a "houseboat", shall be permitted upon the waters of the National Parks, Monuments, or Recreation Areas. This paragraph shall not apply to Everglades National Park and National Capital Parks.

(c) All boats operated on park or monument waters shall conform with all provisions of Public Law 85-911 (Federal Boating Act of 1958).

§ 1.60 Discrimination in furnishing public accommodations.

The proprietor, owner, or operator and the employees of any hotel, inn, lodge, or other public accommodation within areas administered by the National Park Service are prohibited from (a) publicizing such facilities in any manner that would directly or inferentially reflect

upon or question the acceptability of the patronage of any person or persons because of race, creed, color, or national origin; and (b) discriminating against any person or persons because of race, creed, color, or national origin by refusing to furnish such person or persons any accommodations, facilities, or privileges offered to or enjoyed by the general public.

§ 1.61 Aircraft.

(a) No person shall land aircraft on land or water on any Federally-owned area within any national park or monument, other than at one of the following designated landing areas:

(1) *Mount McKinley National Park, Alaska*. McKinley Park Station Airport, located in Sections 3 and 4, Township 14 South, Range 7 West, and Sections 33 and 34, Township 13 South, Range 7 West, Fairbanks Meridian.

(2) *Death Valley National Monument, California*. Death Valley Airport, located in W 1/2 Section 16 and NW 1/4 Section 21, Township 27 North, Range 1 East, San Bernardino Base and Meridian.

(3) *Glacier Bay National Monument, Alaska*. The entire water area of the monument, except Adams Inlet and any of the lakes within the Monument; provided, however, landings and takeoffs shall not be made on beaches or tidal flats or within one nautical mile of any tidewater glacier in the monument. If authorized by the Superintendent, helicopters may land at selected sites where deemed essential in the conduct of prospecting and mining activities.

(4) *Grand Teton National Park, Wyoming*. Jackson airport, located in SE 1/4 SE 1/4 Section 10, SE 1/4 and S 1/2 SW 1/4 Section 11, S 1/2 and NW 1/4 Section 14, NW 1/4 NE 1/4 and E 1/2 NE 1/4 Section 15, Township 42 North, Range 116 West, 6th Principal Meridian.

(5) *Katmai National Monument, Alaska*. The entire land and water area of the Monument during the period from May 15 to September 15. Planes on official business for the State of Alaska may land within the Monument at any time.

(6) *Fort Jefferson National Monument, Florida*. The waters within a radius of one nautical mile of the fort situated on Garden Key, but approaches, landings and take-offs shall not be made within 300 yards of the nesting grounds of summer tern colonies. Seaplanes may be moored or brought up on land only on the northwest beach and the beach between the coaling docks, both at Garden Key.

(7) *Isle Royal National Park, Michigan*. The coastal waters of Lake Superior, Rock Harbor, Tobin Harbor, Duncan Bay, Amygdaloid Channel, McCargo Cove, Todd Harbor, and Siskiwit Bay.

(b) The provisions of this section shall not be applicable to aircraft (1) engaged on official business of the Federal Government, (2) used in emergency rescue in accordance with the directions of the officer in charge of the park or monument, or (3) forced to land due to unforeseeable circumstances beyond the control of the operator.

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§ 1.62 Impounding of animals.

(a) Livestock and dogs trespassing on any lands of the United States in a National Park Service area may be impounded by the superintendent in charge and shall be disposed of in accordance with State statutes insofar as the same may be applicable. In the absence of applicable State statutes the animals shall be disposed of in accordance with this section.

(b) If the owner is known, prompt written notice of the impounding will be served upon him, and in the event of his failure to remove the impounded animal within five (5) days from delivery of such notice, it will be sold or otherwise disposed of as prescribed in this chapter.

(c) If the owner is unknown, no sale or other disposition of the animal shall be made until at least fifteen (15) days have elapsed from the date that a notice of the impounding is first published in a newspaper of general circulation in the county in which the trespass occurs and posted at the county courthouse.

(d) Regional directors and superintendents are hereby authorized to order the publication of such notices in newspapers by direct transmittal to the publisher of the standard form of advertising order approved by the Comptroller General.

(e) The notice shall state when and where the animal was impounded; shall describe it by brand or earmark, or both, or, in the absence of such distinguishing marks, by such other means as are necessary reasonably to identify such animal; shall specify the time and place it will be offered at public sale to the highest bidder in default of redemption by the owner on or before that date; and shall reserve the right of the official conducting the sale to reject any and all bids so received.

(f) Prior to such sale, the owner may redeem the animal by submitting proof of ownership and paying all expenses of the United States for capturing, advertising, pasturing, feeding, and impounding, and the amount of damage to any National Park Service property injured or destroyed by or through such trespass. Upon the sale of any animal in accordance with this section, the regional director or superintendent shall issue a certificate of sale.

(g) If an animal impounded under this section is offered at public sale and no bid is received or if the highest bid received is in an amount less than the amount of the claim of the United States or of the officer's appraised value of the animal, whichever is the lesser amount, such animal may, in the discretion of the superintendent be sold at private sale for the highest amount obtainable, or be condemned and destroyed or converted to the use of the United States if of value for that purpose.

(h) In determining the claim of the Government in all livestock trespasses on National Park Service areas, the value of forage consumed shall be computed at the daily, weekly, monthly, or yearly commercial rates prevailing in the locality for the class of livestock found in trespass. In addition, the claim shall include damages to National Park Serv-

ice property injured or destroyed by trespassing livestock and dogs, the expenses incurred in impounding, sale, or other disposition of such animals, and the pro rata salary of Service employees for the time spent and the expenses incurred in and about the investigations, reports, and settlement or prosecution of the case.

(i) When the amount received in the sale of the animal either at auction or private sale, or when the appraised value of the animal in case it is converted to the use of the Government, is insufficient to meet the amount of the Government's claim, or when it is necessary to destroy the impounded animal without benefit to the Government, the facts shall be fully reported to the Director for appropriate action to obtain full satisfaction of the Government's claim.

§ 1.63 Public meetings and speeches.

(a) Public meetings and assemblies, the making of speeches, and the expression of views, publicly, will be permitted within a park or monument only if an official permit therefor be first obtained from the Superintendent. The Superintendent shall issue a permit designating the site to be used, except in the following circumstances: (1) When a prior application for the same time and place has been made which has been or will be granted; (2) when, in his judgment, such a meeting, assembly, or speech would be contrary to the purposes for which the park or monument is administered; or (3) when, in his judgment, the use of the park or monument at the time and in the manner requested would interfere or conflict with the comfort, convenience, and interest of the general public.

§ 1.64 Tampering with a parked motor vehicle.

No person shall tamper with, or attempt to enter or start, or move or cause to be moved, a parked motor vehicle not lawfully under his control. This section shall not apply to employees of the National Park Service or other employees of the Federal Government or duly authorized officials, in connection with their official duties.

§ 1.91 Penalties.

(a) Any person who violates any provision of the rules and regulations in this chapter, or as the same may be amended or supplemented, in regard to any national park or monument not specified in paragraph (b) or (c) of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500 or imprisonment for not exceeding 6 months, or both, and be adjudged to pay all costs of the proceedings.

(b) Any person who knowingly and willfully violates any provision of the rules and regulations in this chapter, or as the same may be amended or supplemented, in regard to any of the national military parks, battlefield sites, national monuments, or miscellaneous memorials transferred to the jurisdiction of the Secretary of the Interior from that of the Secretary of War by Executive Order No. 6166, June 10, 1933, and enumerated in Executive Order No. 6228, July 28, 1933, shall be deemed guilty of a misdemeanor

and upon conviction thereof shall be punished by a fine of not more than \$100 or by imprisonment for not more than 3 months, or by both such fine and imprisonment.

(c) Any person violating any provision of the rules and regulations in this chapter, or as the same may be amended or supplemented, in regard to any national historic site shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500 and be adjudged to pay all costs of the proceedings.

PART 2—GENERAL RULES AND REGULATIONS; NATIONAL RECREATION AREAS**Sec.**

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AUTHORITY: §§ 2.1 to 2.40 issued under sec. 8, 39 Stat. 535, as amended; 16 U. S. C. 3.

§ 2.1 General provisions.

(a) The regulations in this part shall be applicable to the following National Recreation Areas:

(1) Lake Mead National Recreation Area, Arizona and Nevada, administered by the National Park Service, Department of the Interior, in cooperation with the Bureau of Reclamation and the Bureau of Indian Affairs, Department of the Interior, pursuant to a memorandum of agreement between the National Park Service and the Bureau of Reclamation, approved October 13, 1936, as amended by supplemental agreement between said two agencies, approved July 18, 1947, and as further detailed in a cooperative agreement between the National Park

Service and the Bureau of Indian Affairs approved November 11, 1937.

(2) Coulee Dam National Recreation Area, Washington, administered by the National Park Service, Department of the Interior, in cooperation with the Bureau of Reclamation and the Bureau of Indian Affairs, Department of the Interior, as detailed in a memorandum of agreement among the three agencies, approved December 18, 1946.

(3) Shadow Mountain National Recreation Area, Colorado, administered by the National Park Service, Department of the Interior, in cooperation with the Bureau of Reclamation and the Bureau of Land Management, Department of the Interior, as detailed in a memorandum of agreement between the three agencies approved August 3, 1955.

(4) Glen Canyon National Recreation Area, Arizona and Utah, administered by the National Park Service, Department of the Interior, in cooperation with the Bureau of Reclamation, Department of the Interior, pursuant to a memorandum of agreement dated April 18, 1958, between the two agencies approved May 17, 1958, by the Commissioner of the Bureau of Reclamation and June 9, 1958, by the Acting Director of the National Park Service.

(b) This part, however, shall not be applicable to any of the activities of the Bureau of Reclamation, its officers, employees, agents, or contractors in connection with the construction or operation and maintenance of the works of the respective reclamation projects directly associated with any of the areas mentioned in this section.

(c) This part shall not apply to or on any of the trust or restricted Indian Lands, either tribally or individually owned, within any of the above-described areas.

(d) Wherever in this part the Superintendent is authorized to prohibit or restrict certain actions by the public in an area designated by him, he shall inform the public of the prohibited or restricted action by posting official signs and shall indicate the limits of the restricted area on a map which shall be available for public inspection in the office of the Superintendent. The posting of official signs shall be accomplished by placing them conspicuously at appropriate intervals in such manner as to afford the public full notice of all restrictions and of the limits of restricted areas.

§ 2.2 Definitions.

As used in the regulations in this part, unless otherwise indicated:

(a) The term "Secretary" means the Secretary of the Interior.

(b) The term "Director" means the Director of the National Park Service.

(c) The term "Regional Director" means the administrative officer in charge of a region of the National Park Service.

(d) The term "Superintendent" means the administrative officer in charge of a national recreation area to which the regulations in this part are applicable, or his authorized representative.

(e) The term "areas" means the national recreation areas to which the regulations in this part are applicable.

(f) (1) The term "Lake Mead National Recreation Area" means the property owned by the United States, including the water surface of Lake Mead and Lake Mohave, within that portion of the Boulder Canyon Project which is administered by the National Park Service, shown outlined in green on a map thereof (Drawing by Thomas 8-3-49, Division of Landscape Architecture, Region Three, National Park Service, Department of the Interior), a copy¹ of which shall be filed with the regulations in this part with the Office of the Federal Register, and a copy of which shall be kept in the office of the Superintendent for public inspection.

(2) The term "Coulee Dam National Recreation Area" means the property owned by the United States, including the water surface of Roosevelt Lake, within that portion of the Columbia Basin Project which is administered by the National Park Service, shown outlined in green on the set of maps comprising 4 sheets numbered RA-CD-7001, 2, 3, and 4, dated April 15, 1946, a copy¹ of which shall be filed with the regulations in this part with the Office of the Federal Register, and a copy of which shall be kept in the office of the Superintendent for public inspection. Nothing contained in this part, however, shall be construed as, in any way, conflicting with the paramount rights of the Indians of the Spokane and Colville Reservations to use for hunting, fishing, and boating purposes, the areas set aside by the Secretary of the Interior pursuant to the act of June 29, 1940 (54 Stat. 703), which areas are designated on the above-mentioned maps as the Spokane Indian Zone and the Colville Indian Zone, respectively.

(3) The term "Shadow Mountain National Recreation Area" means the property owned by the United States, including the water surface of Granby Reservoir and Shadow Mountain Lake, within that portion of the Colorado-Big Thompson Project which is administered by the National Park Service pursuant to a memorandum of understanding between the National Park Service, Bureau of Land Management and the Bureau of Reclamation, as shown by Drawing No. RS/SMGR-7100C, dated September 27, 1954, attached to the memorandum of understanding as "Exhibit A," a copy of which shall be filed with the regulations in this part with the Office of the Federal Register, and a copy of which shall be kept in the office of the Superintendent for public inspection.

(4) The term "Glen Canyon National Recreation Area" means the property owned by the United States, including the unimpounded and impounded water surface of the Colorado and San Juan Rivers legally described in the three withdrawals made for the Glen Canyon Unit, Colorado River Storage Project, Published in the FEDERAL REGISTER on June 22, 1954, pp. 3799, 3800 and 3801 and May 24, 1956, p. 3462. Portions of these withdrawn lands needed for construction activities by the Bureau of Reclamation are excepted.

¹ Filed with the Federal Register Division. See 17 F.R. 6044, July 4, 1952.

(g) The term "commercial vessel" shall include every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, which is kept or used for rental or for carrying passengers for hire or used in transporting moveable property for a fee or profit, either as a direct charge to a second party, or as an incident to other services provided to a second party, or in connection with any business.

(h) The term "private vessel" shall include every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, which may be placed on or operated upon the waters of the areas for the private recreational use of the owner or operator, and for which no fee or other charge is made by any person, firm or corporation in connection with the use thereof on the waters of the areas.

(i) The term "water-borne vessel" shall include private and commercial vessels as defined in this section.

§ 2.3 Camping.

(a) Camping, other than from vessels, in Lake Mead and Coulee Dam Recreation Areas is permitted only in designated areas, except by written authorization of the superintendent. In Shadow Mountain Recreation area all camping is restricted to designated camp areas.

(b) The superintendent may establish limitations on camping and upon posting of such limitation no person shall camp for a period longer than that specified for the particular area. Notice of such limitation shall be posted in a conspicuous place at the campground.

(c) Overnight camping, other than from vessels, is specifically prohibited in picnic areas, on swimming beaches, in areas adjacent to concession developments, or in any area not designated by the superintendent.

(d) Camping from vessels is limited to 7 days at any one location, except at Coulee Dam Recreation Area where no limit is prescribed. All sanitary facilities shall be established above the high water line of the lake. The campsite shall be restored to its natural state when the camp is abandoned. All refuse shall be returned to a boat landing and deposited in refuse containers.

§ 2.4 Picnicking.

Picnicking is permitted in the areas. The Superintendent may, however, prohibit picnicking within designated portions of the areas and may establish reasonable limitations on the length of time any person or group of persons may use any picnicking facility when, in his judgment, such limitations are necessary for the accommodation of the visiting public.

§ 2.5 Hunting and trapping.

(a) Hunting and trapping will be permitted in accordance with all applicable Federal, State, and local laws for the protection of wildlife, except in developed and/or concentrated public use areas designated by the Superintendent. Portions of the areas in which hunting and

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trapping are not permitted will be marked on the ground and designated on a map of the area which will be available for inspection in the office of the Superintendent.

§ 2.6 Fishing.

(a) Fishing is permitted within the areas in accordance with all applicable Federal, State, and local laws for the protection of fish and other aquatic life, except that in Lake Mead National Recreation Area fishing is prohibited in Black Canyon within limits posted by appropriate official signs or markers adjacent to Hoover Dam and within limits similarly posted adjacent to Davis Dam.

(b) Fishing in designated harbor or mooring areas; from or within 200 feet of any public raft or float designated for water sports, is prohibited.

§ 2.7 Swimming and bathing.

(a) Swimming and bathing are permitted, except in waters designated by the Superintendent as waters in which such activities are prohibited in the interest of public health and safety.

(b) Swimming from unanchored boats is prohibited. All children under 12 years, when in the water, and water skiers when in "tow" shall wear approved life preservers.

§ 2.8 Firearms and explosives.

The carrying of loaded firearms or explosives in developed and/or concentrated public use areas designated by the Superintendent is prohibited. In all other areas firearms or explosives shall not be used in a manner so as to endanger persons or property.

§ 2.9 Fires.

(a) Due diligence shall be exercised in building and putting out fires to prevent damage to trees and vegetation and to prevent forest and grass fires. In areas provided with such facilities, the fireplaces constructed for the convenience of visitors must be used. The building of fires on any lands within the areas may be prohibited or limited by the Superintendent by the posting of adequate official signs when the hazard makes such action necessary.

(b) Permission to burn on any cleanup operation within the area must first be obtained, in writing, from the Superintendent, and in such cases as it is deemed advisable, such burning will be under Government supervision. All costs of suppression and all damages caused by reason of loss of control of such burning operations shall be paid by the person or persons to whom such permit has been granted.

§ 2.10 Public property; miscellaneous provisions.

(a) The willful destruction, injury, defacement, or removal of public property is prohibited.

(b) The Superintendent may permit the collection or removal of natural objects.

(c) The Superintendent or other officer having authority to grant such authorization may, upon such terms and conditions as are deemed by him to be adequate to protect the interests of the

United States, grant permits for the removal of sand, gravel, or building materials, and make reasonable charges therefor.

§ 2.11 Sanitation.

(a) No garbage, papers, cans, bottles, or rubbish of any kind shall be thrown or dumped in the waters of the areas or along the roads, in picnicking or camping sites, or beaches, or on any other lands of the areas, but shall be burned or buried, or disposed of at points or places designated for the disposal thereof.

(b) Contamination of watersheds or of any water used for drinking purposes is prohibited.

(c) All comfort stations shall be used in a clean, sanitary and orderly manner.

(d) Saddle, pack, or draft animals shall not be kept in, or within 300 feet of any campgrounds.

(e) Wastes from toilets or galleys on water-borne vessels shall not be discharged within one-half mile of boat landings, moorings, or other habitated facilities, except that at Coulee Dam Recreation Area, wastes of any kind may not be discharged into the lake.

(f) The drainage or dumping of refuse from any trailer, except in places or receptacles provided for such purposes, is prohibited.

(g) Garbage and refuse of all kinds from lake shore campsites shall be returned to the established boat harbor areas and deposited in receptacles provided for the purpose.

(h) The cleaning of fish is prohibited in or around designated public use areas except at authorized fish cleaning facilities when provided.

§ 2.12 Disorderly conduct.

(a) Persons who render themselves obnoxious by disorderly conduct, bad behavior, or indecent exposure shall be subject to the penalties prescribed by law for violation of this part and in addition thereto, or in lieu thereof, may be summarily removed from the areas by the Superintendent.

(b) No person who is under the influence of intoxicating liquors or narcotic drugs shall operate a water-borne vessel, aircraft, or motor vehicle of any kind within the areas.

§ 2.13 Pets.

Dogs, cats, and other pets must be under physical restrictive control at all times when in developed and/or concentrated public use areas designated by the Superintendent. Such pets shall not be permitted in public eating places or on swimming beaches at any time.

§ 2.14 Aircraft.

(a) No person shall land aircraft on any water or land surface within the areas, other than at one of the following designated landing sites:

(1) *Lake Mead National Recreation Area, Arizona and Nevada.* (i) The entire surface of Lake Mead, except that no aircraft shall be permitted to land or take off within 500 feet of public bathing beaches, boat docks, floats, piers, ramps, or water control structures, or within Black Canyon above Hoover Dam.

(ii) Temple Bar landing strip located at approximate latitude 36 degrees north, approximate longitude 114 degrees 19 minutes west.

(iii) Pierce's Ferry landing strip located at approximate latitude 36 degrees 03 minutes north, approximate longitude 114 degrees 05 minutes west.

(iv) Davis Dam landing strip located in Sections 30 and 31, Township 21 North, Range 21 West, Gila and Salt River Meridian, Arizona.

(v) Entire surface of Lake Mohave, except that no aircraft shall be permitted to land or take off within 500 feet of public bathing beaches, boat docks, floats, piers, ramps, or water control structures or within 10 miles of Hoover Dam.

(vi) "Cottonwood" landing strip, located at approximate latitude 35 degrees 27 minutes north, approximate longitude 114 degrees 30 minutes west.

(2) *Coulee Dam National Recreation Area, Washington.* The entire surface of Roosevelt Lake, except that no aircraft shall be permitted to land or take off within 500 feet of public bathing beaches, boat docks, floats, piers, ramps, or water control structures.

(3) *Glen Canyon National Recreation Area, Arizona and Utah.* (i) The entire surface of Glen Canyon Reservoir except that no aircraft shall be permitted to land or take off within 500 feet of public bathing beaches, boat decks, floats, piers, ramps, water control structures, or within 2 miles of Glen Canyon Dam.

(ii) Wahweap landing strip located in section 2, Township 4IN, Range 8E, Arizona.

(iii) Existing landing strips at Hite, Utah and Red Canyon, Utah may be used until they are inundated by the filling of Glen Canyon Reservoir.

(b) The provisions of this section shall not be applicable to aircraft (1) engaged on official business of the Federal Government, (2) used in emergency rescue in accordance with the directions of the officer in charge of the area, or (3) forced to land due to unforeseeable circumstances beyond the control of the operator.

§ 2.15 Accidents.

(a) The operator of any vessel or vehicle involved in an accident shall:

(1) Immediately stop and render such assistance as may be reasonably necessary.

(2) Furnish to any person injured, and to the owner of the vessel or vehicle involved in the accident, his name, address, and a full identification of the vessel or vehicle he is operating, and the name and address of the owner thereof.

(3) Report the accident to the Superintendent or his authorized representative as soon as possible.

§ 2.16 Grazing and agricultural use.

The running at large, herding, driving across, or grazing of livestock of any kind on the Government lands in the areas, or the use of such lands for agricultural purposes, is prohibited, except where written authority therefor has been granted by the Superintendent or under a valid lease from the United States.

§ 2.17 Private and commercial uses.

(a) No person, other than employees of the National Park Service, shall reside permanently in the areas, except in accordance with the provisions of a permit or other written agreement with the United States authorizing such use.

(b) No person, firm, or corporation, or their representatives, shall engage in or solicit any business in the areas, except in accordance with the provisions of a permit, contract, or other written agreement with the United States.

(c) No person, firm, or corporation shall erect, construct, or attempt to erect or construct a building, boat dock, road, trail, path, or other way, telephone line, telegraph line, power line, or other private or public utility, upon, across, over, through, or under any federally owned lands within the areas, except in accordance with the provisions of a valid permit, contract, or other written agreement with the United States.

§ 2.18 Advertisements.

(a) Private notices or advertisements shall not be posted, distributed, or displayed in the areas, except such as the Superintendent may deem necessary for the convenience and guidance of the public.

(b) Advertising signs are prohibited aboard any vessel within the area.

§ 2.19 Closing of area.

The Superintendent, in his discretion, may close to public use any part of the areas during any period of emergency endangering life or property.

§ 2.20 Vehicles.

(a) Subject to the limiting provisions of this section and such special regulations as may be issued to govern a particular area, motor vehicles, trailers, and other vehicles entering the areas shall be operated in accordance with the applicable State laws and regulations then current within the particular section of the area in which the vehicle is being operated.

(b) Drivers of all vehicles operated within the areas shall comply with the directions of all official traffic signs posted in an area.

(c) Load and weight limitations shall be those prescribed and posted from time to time by the Superintendent, and such limitations shall be complied with by the operators of all vehicles using the roads of the areas. Schedules showing load and weight limitations for the different roads within the areas may be seen at the office of the Superintendent and at ranger stations at entrances to the areas.

(d) No vehicle shall be operated off of established roads except by written authorization of the Superintendent.

§ 2.21 Houseboats.

No waterborne vessel, primarily designed for living quarters or used for that purpose shall be placed in or operated on the waters of the areas without written authorization of the Superintendent.

§ 2.22 Vessels, private.

The Superintendent may require the issuance of a permit before any vessel is

placed in or allowed to operate on the waters of the areas. He may specify locations and conditions under which vessels may operate, and shall have the authority to revoke the permit and require the immediate removal of such vessel upon failure of the permittee to comply with the terms and conditions of the permit.

§ 2.23 Vessels, commercial.

No commercial vessel shall be launched or docked at any point on the federally owned shorelands surrounding the waters of the areas or make use of any launching or docking facility within the areas, except as authorized by permit, contract, or other written agreement with the United States.

§ 2.24 Restricted waters.

(a) Except to effect rescue or unless otherwise specifically authorized, no water-borne vessel shall be operated within any waters zoned and marked as migratory bird rest waters or for related wildlife uses, including waters zoned and marked for fish culture purposes.

(b) No motor vessel shall be permitted to approach within 500 feet of any designated beaches, except at Coulee Dam Recreation Area where the approach limit is 200 feet, and except to effect rescues.

(c) No water-borne vessel shall approach within 200 feet of any dam or other restricted engineering works within the areas, except to effect rescue: *Provided*, That in Lake Mead National Recreation Area no motor vessel shall approach Hoover or Davis Dams closer than the limits posted by appropriate official signs or markers.

(d) The Superintendent, in his discretion, may exclude the operation of water-borne vessels within any designated waters when such action is necessary to protect life and property. Such restricted areas shall be defined by buoys or markers and shall be designated on a map of the restricted portions, copies of which shall be posted at all public docks for convenient inspection.

(e) No person or operator of any type of waterborne vessel shall at any time attach a vessel to, or interfere with any navigational reef marker or aid within the waters of the areas.

(f) The provisions of this section shall not apply to any boats operated for official use by any agency of the United States, or of the States in which the waters within a particular area are situated.

(g) In Glen Canyon National Recreation Area no waterborne vessel shall approach Glen Canyon Dam closer than the limits posted by appropriate official signs or markers.

§ 2.25 Speed of water-borne vessels.

No person shall operate a motor vessel—

(a) In a manner which unnecessarily interferes with the free and proper use of the navigable waters of the United States or unnecessarily endangers other vessels therein, or the life and limb of any person.

(b) At a rate of speed greater than will permit him, in the exercise of rea-

sonable care, to bring the motor vessel to a stop within the assured clear distance ahead.

(c) With any person or persons riding or sitting on either the starboard or port gunwales thereof or on the decking over the bow.

(d) Or be in actual physical control of same while under the influence of intoxicating liquor, narcotics or habit-forming drugs, or shall the owner or operator of any vessel authorize or knowingly permit the same to be operated by any other person under the influence of intoxicating liquors, narcotics or habit forming drugs.

(e) In excess of five miles per hour in designated harbors.

(f) In excess of twenty miles per hour within two hundred feet of the shoreline or reefs.

§ 2.26 Obstructions.

Unless otherwise specifically authorized, no log boom, pier, dock, fence, pile, anchorage, or other obstruction shall be installed in the waters of the areas without a permit therefor issued by the Superintendent designating the place and manner of its installation.

§ 2.27 Compliance with Federal laws and regulations.

Nothing contained in the regulations in this part shall relieve any water-borne vessel, the owner, or the operator thereof, from the obligation to comply with the applicable laws of the United States and the rules and regulations of the United States Coast Guard or other Federal agencies operative within the areas.

§ 2.28 Discrimination in furnishing public accommodations.

The proprietor, owner, or operator and the employees of any hotel, inn, lodge, or other public accommodations within the areas are prohibited from (a) publicizing such facilities in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person or persons because of race, creed, color, or national origin; and (b) discriminating against any person or persons because of race, creed, color, or national origin by refusing to furnish such person or persons any accommodations, facilities, or privileges, offered to or enjoyed by the general public.

§ 2.29 Reckless driving.

The driving of any vehicle upon a Government road or public use area in a national recreation area carelessly and heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and at a speed or in a manner so as to endanger or be likely to endanger any person or property is prohibited.

§ 2.30 Abandonment of property.

(a) The abandonment of personal property in national recreation areas is prohibited.

(b) Any personal property left unattended for a period in excess of 72 hours is subject to removal by order of the Superintendent or his authorized representative; the expense of such removal

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shall be paid by the person leaving such property.

§ 2.31 Lost articles.

(a) Lost articles or money found in National Recreation areas, shall be turned in immediately at the office of the Superintendent or at the nearest Ranger Station.

(b) The United States is not responsible for any losses on, or damage to vessels in the areas.

§ 2.32 Relics.

Relics, artifacts, and other articles of historic or archeologic interest found on the Government land are Government property and must, if removed from the place where they are found, be deposited with the Superintendent or at the nearest ranger station.

§ 2.33 Tampering with a parked motor vehicle.

No person shall tamper with, or attempt to enter or start, or move or cause to be moved, a parked motor vehicle not lawfully under his control. This section shall not apply to employees of the National Park Service or other employees of the Federal Government or duly authorized officials, in connection with their official duties.

§ 2.34 Water skiing.

(a) Water skiing is permitted during daylight hours only, on the waters of the areas.

(1) There must be two competent persons in the boat, with one acting as observer when a skier is in "tow".

(2) The direction of all skiing and towing of skiers shall be counter clockwise.

(3) Skiers must wear accepted type ski belts or jackets.

(b) Water skiing is prohibited:

(1) Within 500 feet of harbors, swimming beaches, and mooring areas, or within 100 feet of any person swimming outside a designated swimming area.

(2) In main channels of the lakes and in any areas so posted by the Superintendent.

§ 2.35 Navigation of waterways.

No person shall operate any vessel in a manner which shall unreasonably interfere with other vessels or with the free and proper navigation of the waterways of the areas. Anchoring in heavily traveled channels or main thoroughfares shall constitute such interference if unreasonable in the prevailing circumstances.

§ 2.36 Launching of vessels.

The Superintendent may require the owner of a vessel to obtain a permit before the vessel is launched on Lake Mead or Lake Mohave.

§ 2.37 Overnight accommodations.

No person or persons shall stay overnight on a vessel moored in any designated mooring area without written authorization of the Superintendent.

§ 2.38 Muffler cut-outs.

Every vessel operating in or on the waters of the areas which is propelled by an internal combustion engine or

engines, shall be equipped with a muffler or mufflers so constructed as to prevent any intense or prolonged noise in the operation or management of such vessel and the said muffler or mufflers shall not be removed, cut down, or put out of operation for any purpose whatever, except during periods of regattas and upon authorization of the Superintendent. Nothing contained in this section shall apply to vessels equipped with underwater exhausts or to vessels discharging water through open exhaust pipes so long as these methods of silencing the exhaust are effective.

§ 2.39 Trailers.

Wheels, except for making repairs, shall not be removed from trailers in the areas.

§ 2.40 Use of Government-owned docks, piers and floats.

Government-owned docks, piers and floats shall be used for loading and unloading of vessels, except in emergencies. The use of such facilities for any other purpose is prohibited except upon written authorization of the Superintendent or his authorized representative.

PART 3—NATIONAL CAPITAL PARKS REGULATIONS

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AUTHORITY: §§ 3.1 to 3.101 issued under sec. 6, 30 Stat. 571, sec. 3, 39 Stat. 535, as amended, sec. 16, 43 Stat. 1126, as amended; 8 D. C. Code 143, 16 U. S. C. 3, 40 D. C. Code 613.

§ 3.1 Applicability of regulations.

This part applies to all park areas administered by National Capital Parks, National Park Service, in the District of Columbia, Maryland and Virginia, and to other Federal reservations in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the act of March 17, 1948 (62 Stat. 81).

§ 3.2 Applicability of Federal laws.

In all areas to which this part is applicable all acts shall be enforced insofar as applicable.

§ 3.3 Applicability of District of Columbia and State laws.

(a) The laws and regulations promulgated for the District of Columbia shall be enforced, insofar as applicable, in all park areas within the District of Columbia.

(b) In areas to which this part is applicable, located outside the geographical limits of the District of Columbia, the laws of the State within which the area is located shall be invoked and enforced in accordance with the act of June 25, 1948 (62 Stat. 686; 18 U. S. C. sec. 13).

§ 3.4 Definitions.

As used in this part, unless otherwise indicated:

(a) Under the regulations, the term "park area" means any and all developed and undeveloped grounds, playgrounds, plazas, squares, circles, triangles, islands, ways, streets, sidewalks, roads, boulevards, parkways, canals, waters, buildings, monuments, structures and other properties administered by National Capital Parks, National Park Service, including such park areas as herein defined as are used by the District of Columbia Recreation Board pursuant to agreement with the National Capital Parks, National Park Service.

(b) The term "other Federal reservations" means Federal areas, which are

not under the administrative jurisdiction of the Department of the Interior, located in Arlington and Fairfax Counties and the City of Alexandria in Virginia, and Prince Georges, Anne Arundel, and Montgomery Counties in Maryland, exclusive of military reservations, unless the policing of such areas by the United States Park Police is specifically requested by the Secretary of Defense or his designee.

(c) The term "environs of the District of Columbia" embraces Arlington and Fairfax Counties and the City of Alexandria, in Virginia, and Prince Georges, Anne Arundel, and Montgomery Counties, in Maryland.

(d) The term "Secretary" means the Secretary of the Interior.

(e) The term "Director" means the Director of the National Park Service or his authorized representative.

(f) The term "Superintendent" means the Superintendent of National Capital Parks or his authorized representative.

(g) The term "official permit" means permits issued by authorized officials of the agency having control or jurisdiction of the Federal area involved.

(h) The term "official sign" means any sign or signs posted by order of authorized officials of the agency having control or jurisdiction of the Federal area involved.

(i) The term "person" includes individuals, partnerships, firms, corporations, and voluntary associations.

(j) The term "driver" means the rider, driver, or leader of any horse or other riding or draft animal, a person who pushes, draws or propels a vehicle, and the operator of a motor-propelled vehicle.

(k) The term "horse" means any riding or draft animal or beast of burden.

(l) The term "park road" means any street, road, highway or public thoroughfare in any Federal area covered by this part.

(m) The term "vehicle" means any conveyance or animal customarily used for the purpose of riding or driving.

(n) The term "commercial vehicle" means any vehicle designed or used for carrying freight or merchandise for or without hire.

(o) The term "parking" means any vehicle left standing, whether or not attended, except when standing in obedience to traffic regulations, signs or signals, or to a police officer.

§ 3.5 Penalties.

(a) *Regulations in this part.* Any person violating any of the provisions of this part, except violations of traffic and motor vehicle regulations in park areas in the District of Columbia, shall, upon conviction thereof, be punished by a fine of not more than \$500 or imprisonment for not exceeding six months or both.

(b) *Traffic violations in District of Columbia.* Any person violating any of the provisions of the traffic and motor vehicle regulations contained in this part in park areas in the District of Columbia, except where a penalty is otherwise provided, shall, upon conviction thereof, be punished by a fine of not more than \$300 or imprisonment of not more than 10 days or both.

(c) *Statutes; other applicable regulations.* Any person violating any act of Congress or State law adopted pursuant to an act of Congress or rule or regulation promulgated by other Federal officials, the Commissioners of the District of Columbia, or other municipal officials, which is in force and applicable to any area covered by this part shall, upon conviction, be punished in accordance with the penalty provisions of such act, rule or regulation.

§ 3.6 Place of trial.

Any person violating any of the regulations contained in this part in park areas within the District of Columbia is subject to prosecution and trial in the Municipal Court for the District of Columbia. Any person violating any of the regulations contained in this part in areas covered by this part within the States of Maryland or Virginia may be tried by a United States Commissioner authorized to try petty offenses in the judicial district in which the offense was committed or, if the person charged with the offense so elects, he shall be tried in the district court of the United States which has jurisdiction over the offense.

§ 3.7 Federal property; miscellaneous provisions.

(a) *Statues and other structures.* No person shall climb upon or in any way injure any statue, fountain, wall, banister, ledge, fence, balustrade, railing or other structure.

(b) *Water system.* No person shall tamper with drinking fountains, hydrants, or other water system facilities.

(c) *Life buoys.* No person shall tamper with or remove life buoys from their fastenings except for the purpose of aiding a person who is in danger of drowning.

(d) *Injury to lawns.* No person shall make any use of lawn areas which tends to injure the lawns in any manner. This section shall not be construed to prohibit casual strolling over lawn areas.

(e) *Short cuts.* No person shall make short cuts across lawn areas which tend to make paths. Hikers and horseback riders shall not make short cuts, but must confine themselves to the established trail.

(f) *Signs.* No person shall tamper with, mar, remove or destroy any official or public sign.

(g) *Dumping.* No person shall dump any material or refuse of any description in any area covered by this part, except pursuant to the provisions of an official permit.

(h) *Storage.* No person shall store material of any description, or displace, leave, house, or permit to be placed or left in any area covered by this part any vehicle or parts of vehicles, or rubbish of any description, except pursuant to the provisions of an official permit.

(i) *Fences and other structures.* No person shall enclose any area covered by this part or erect any fence, wall, or build any trail, road, bridge or other structure in any area covered by this part, except pursuant to the provisions of an official permit.

(j) *Spilling of deleterious substance.* No person shall pour or cause to spill or

permit to escape in any area covered by this part any oil, gas, salt, acid or other deleterious substance whether liquid, solid or gaseous, except pursuant to the provisions of an official permit.

(k) *Other injury or removal.* Any other injury to or removal of any Federal property, except under authority of law, is prohibited.

(l) *Historic structures and remains.* The destruction, injury, defacement, removal, or disturbance in any manner of any historic structure, ruins, relics, artifacts or remains is prohibited. Any such object removed in violation of this section shall be delivered to the Superintendent or his representative on demand.

(m) *Soils, rocks, and minerals.* The destruction, injury, defacement, removal, or disturbance in any manner of any soil, rock, mineral formation, or phenomenon of crystallization is prohibited. The provisions of this section do not pertain to construction projects authorized by the Superintendent.

§ 3.8 Lamps and lamp posts in park areas.

(a) No person shall break, damage, or carry away any lantern, glass, frame, street designation, fixture, or other part or appurtenance of any public lamp; or hitch, tie or fasten any animal to any lamp post or appurtenance thereof.

(b) No person shall take up or carry away any public lamp post, or extinguish or obstruct the light in any public lamp, or cap or plug the service pipe of any public lamp.

(c) No person shall climb, damage or destroy any public lamp post, or attach any guy line or sign thereto, or deface any public lamp post or appurtenance thereof by means of lime, mortar, paint, or other material; or pile material of any kind against any public lamp post.

§ 3.9 Comfort stations and other structures.

(a) No person shall enter, remain, or loiter in any comfort station or other public structure in a park area except to use such facility for the purpose for which it is intended.

(b) No person shall deposit any bodily waste in or on any portion of any comfort station or other public structure in a park area excepting directly into such particular fixtures as may be provided for that purpose, nor place any bottle, can, cloth, rag, or metal, wood, or stone substance in any of the plumbing fixtures in such station or structure.

(c) In a comfort station or other public structure in a park area, no person shall interfere with any attendant in the performance of his or her duty.

(d) No person shall cut, deface, mar, destroy, or break, or write on or scratch any wall, floor, ceiling, partition, fixture, or furniture, or use towels in any improper manner, or waste soap, toilet paper, or any of the facilities provided in any comfort station or other public structure in a park area.

§ 3.10 Trees, shrubs, plants, grass and other vegetation.

(a) *General injury.* No person shall prune, cut, carry away, pull up, dig, fell, bore, chop, saw, chip, pick, move, sever,

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climb, molest, take, break, deface, destroy, set fire to, burn, scorch, carve, paint, mark, or in any manner interfere with, tamper, mutilate, misuse, disturb or damage any tree, shrub, plant, grass, flower, or part thereof, nor shall any person permit any chemical, whether solid, fluid, or gaseous, to seep, drip, drain or be emptied, sprayed, dusted or injected upon, about or into any tree, shrub, plant, grass, flower, or part thereof, except when specifically authorized by competent authority; nor shall any person build fires, or station, or use any tar kettle, heater, road roller or other engine within an area covered by this part in such a manner that the vapor, fumes or heat therefrom may injure any tree or other vegetation.

CROSS REFERENCE: For parking which may impair vegetation and trees, see § 3.33(a) (1) and (8).

(b) **Animals.** No person shall hitch, tie or fasten any horse or other animal to, or within reach of, any tree, shrub, plant, tree box or tree guard.

CROSS REFERENCE: For regulations with respect to domestic animals, see also §§ 3.11 and 3.13.

(c) **Attachments.** No person shall hitch, tie, fasten, nail, anchor, screw or otherwise attach any wire, cable, chain, rope, card, sign, poster advertisement, notice, announcement, handbill, board or other article or device to any tree, shrub or plant, without first obtaining an official permit.

(d) **Excavations.** No person shall excavate any ditches, tunnels, holes or trenches, or lay any sewer or pipe line, drain, conduit or cable, walk, path, drive or highway within or affecting any park area, without first obtaining an official permit. In making permitted excavations proper care shall be taken to prevent injury to the roots of trees, shrubs, or plants. Upon completion of the work, the ground surface shall be restored by the permittee and the correction of any future settling of the back fill shall likewise be the responsibility of the permittee.

(e) **Guards.** All trees, shrubs, or other plants growing within any park area near any excavation or construction of any kind, shall be protected with a substantial and adequate guard constructed by the permittee.

(f) **Gas.** Any person owning or operating beneath the ground, in or adjacent to park areas, any pipes or other conduits for the transmission or delivery of illuminating gas, oil, steam, or other substance in liquid or gaseous form, shall locate and maintain such pipes or conduits free from leaks and in such condition as to prevent injury to any tree, shrub, plant, lawn, or other vegetation growing within park areas.

(g) **Wires.** No person shall string any wire or wires through or above any park areas; nor prune or remove branches or trees which may now or hereafter interfere, rub or grow near existing wires; nor attach any wire, insulator or device to trees or within any area covered by the root system of trees, without first obtaining an official permit.

Any person having jurisdiction or control over any wire or conduit for the transmission of an electric current shall guard all trees through which such wires or conduits pass, against any injury from the wires or the electric current carried thereby. The device or means used shall, in each case, be of a type approved by the Superintendent.

(h) **Planting.** No person shall plant or cause to be planted any tree, shrub or plant within a park area without first obtaining an official permit.

(i) **Adjacent trees.** Any tree, shrub or plant growing upon private property and which overhangs any park area in such a way as to present a hazard or impede, obstruct or interfere with traffic, travel or park use shall be trimmed, removed, braced, or otherwise treated by the owner of the premises on which such tree, shrub or plant is located, in a manner prescribed by the Superintendent. In an emergency, the Superintendent is empowered to enter such premises and to trim, remove, brace or otherwise treat any tree which is deemed hazardous to park travel or use, in such a manner that the hazard shall be eliminated.

§ 3.11 Dogs, cats and livestock.

(a) The laws and regulations of the District of Columbia, Maryland and Virginia, relating to licenses and muzzles shall apply to dogs in the park areas located within the geographical limits of the respective jurisdiction.

(b) No dog or cat, unless caged or on a leash not more than six feet long and entirely under control, shall be taken into or exercised in park areas: *Provided*, That in special cases the Director may authorize the keeping of dogs, cats and livestock by park residents under such conditions as he may prescribe.

(c) No dog or cat shall be permitted by the person exercising or walking the animal to commit any nuisance on playgrounds, trees, shrubs, plants, lawns, sidewalks, footpaths, or in flower beds, buildings, or in any other park area, except in park roadways.

(d) Livestock and dogs trespassing on any land of the United States in the National Capital Park System may be impounded and shall be disposed of in accordance with State or District of Columbia statutes insofar as the same may be applicable.

§ 3.12 Horses.

(a) A horse shall not be left unbridled or unattended in any park area without being securely fastened, unless harnessed to a vehicle with wheels so secured as to prevent its being dragged faster than a walk.

(b) A driver shall continuously hold the reins in his hand while riding, driving or leading a horse within a park area.

(c) No more than two horses abreast shall be permitted on the bridle paths in any park area.

(d) Horses shall not be allowed to move over any park area other than those specifically designated for horse exercise.

(e) Fast or reckless riding or driving of horses in any park area is prohibited. Equestrians shall be careful to come

down to a walk or slow trot before passing pedestrians.

CROSS REFERENCE: For regulations prohibiting the tying of horses or other animals to lamp posts or trees, see §§ 3.8(a) and 3.10(b), respectively.

§ 3.13 Grazing; permitting animals to run loose.

Using park areas for grazing, allowing to graze, or permitting to run loose thereon any animal, is prohibited, unless authorized by an official permit. Any owner or custodian of an animal or animals shall prevent such animal or animals from doing any of the acts enumerated in this section.

§ 3.14 Picnics in park areas.

(a) **Picnicking.** Picnicking is permitted only in areas designated for such use.

(b) **Permits.** Persons holding official permits for the use of established picnic groves in certain park areas shall be entitled to the exclusive use of such groves on the dates and between the hours specified in the permits. All persons not holding permits shall be required to vacate the groves upon the arrival of permit holders.

(c) **Garbage.** Picnic groves in park areas shall be left in a clean condition by persons using the groves. Garbage and refuse of all kinds shall be placed in receptacles provided for the purpose.

§ 3.15 Athletics.

(a) **Permits for set games.** Playing baseball, football, croquet, tennis, and other set games or sports in park areas except under official permit and upon the grounds provided for such purpose, is prohibited.

(b) **Wet grounds.** Persons holding official permits to engage in games and sports at certain times and at places authorized for this use in park areas are prohibited from exercising the privilege of play accorded by the permit if the grounds are wet or otherwise unsuitable for play without damage to the turf.

(c) **Golf and tennis; fees.** No person shall use golf and tennis facilities in park areas except by payment of the prescribed fee, if one is required, and in compliance with regulations approved by the Director. Use of public golf and tennis facilities is restricted to authorized players and persons accompanying them; trespassing, intimidating, harassing or otherwise interfering with authorized golf players, or interfering with the play of tennis players is prohibited.

(d) **Archery.** No bows and arrows shall be permitted in park areas, with the exception stated in § 3.49, except in places designated by order of the Superintendent.

(e) **Ice skating.** When ice is forming on the Tidal Basin, the Reflecting Pool, and other bodies of water within park areas, all persons shall abide by the directions of the Park Police as to when and where the ice shall be available for skating. When skating is allowed, all persons shall be under obligation to refrain from fast and reckless skating when such skating might endanger the life or limb of other persons.

§ 3.16 Model planes.

No model powered plane shall be flown from any park area unless authorized by an official permit.

§ 3.17 Gambling.

Gambling in any form, or the operation of gambling devices whether for merchandise or otherwise in park areas, is prohibited.

§ 3.18 Hunting and fishing.

(a) *Hunting in park areas prohibited.* The parks are sanctuaries for wildlife of every sort and no person shall at any time or at any place within a park area, trap, catch, kill, injure, or pursue any wild birds or wild animals, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, or destroy, remove or disturb the nest or eggs of any wild bird. The Superintendent is authorized to take necessary action to capture or destroy wildlife which is damaging Government property.

(b) *Unauthorized possession of wildlife.* Unauthorized possession within a park area of any live wild bird or animal, or the dead body or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same, are guilty of violating this section.

(c) *Fishing in park areas in Maryland and Virginia.* Persons fishing in areas under the jurisdiction of the National Park Service, lying within the geographical limits of Maryland or Virginia, must be licensed by and comply with the applicable State laws.

(d) *Fishing in park areas in the District of Columbia.* Persons fishing in waters in the District of Columbia controlled by the Secretary of the Interior shall comply with the fishing regulations for the District of Columbia approved by the Secretary of the Interior and adopted by the Commissioners of the District of Columbia.

(e) *Emergency closing of waters.* During any period of emergency, or to prevent over-use by fishermen of waters open to fishing in areas administered by National Capital Parks, the Superintendent, in his discretion, may close to fishing all or any part of such open waters for such periods of time as may be necessary. Provided, the notice thereof shall be given by the posting of appropriate signs, notices, and markers. Fishing in Prince William Forest Park shall be prohibited in areas designated for swimming, boating, or other public use, such areas to be designated by posting of signs.

§ 3.19 Parades and other functions without permits prohibited; exceptions.

Parades, ceremonies, entertainments, and functions of all kinds, are prohibited in park areas unless authorized by an official permit, except that public meetings and assemblies may be held and speeches and the expression of views publicly may be made without any permit in the following places, which shall be open and available for such purpose at all times to any person, group of persons, or organization:

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(a) *Circus grounds.* Located at Oklahoma Avenue and Benning Road. When the circus grounds are in use by circuses or carnivals under official permits, the use of this area for public meetings and assemblies shall be prescribed by the Superintendent in such manner as to minimize, as far as possible, any interference or disturbance of circus or carnival operations.

(b) *Judiciary park.* On the north-south axis of the park between E Street and the statue of José de San Martin.

(c) *Smithsonian grounds.* In the northeast corner of the park and adjacent to Constitution Avenue and Ninth Street NW.

(d) *United States Reservation 46.* North side of Pennsylvania Avenue, west of Eighth Street and south of D Street SE.

§ 3.20 Areas available at all times subject to permit for public meetings; permit applications.

(a) *Available areas.* Public meetings and assemblies may be held and speeches and the expression of views publicly may be made in the following places, which shall be open and available for such purposes at all times to any person, group of persons, or organization, subject to the condition that an official permit therefor be first obtained.

(1) Anacostia Park west of Eleventh Street.

(2) Polo Field.

(3) Banneker Recreation Center, north side.

(4) Monument Grounds, Sylvan Theater.

(5) Water Gate.

(6) Bunker Hill Amphitheater.

(7) Lincoln Park.

(b) *Application for permits.* Any application for a permit authorizing the holding of a meeting or other function within the areas covered by this section shall set forth the names of proposed speakers and the nature of all proposed speeches. This information shall be submitted sufficiently in advance of the date of the proposed meeting or function to allow persons desiring to reply to such speeches sufficient opportunity to apply for equal facilities. All such applications shall be available to public inspection. Persons or organizations wishing to present views in opposition to those scheduled for presentation under pending application shall be entitled to preference in applying for permission to use the same facilities immediately following or immediately preceding the meeting or function for which the original application was made.

(c) *Permit may be refused if there is a prior application.* The Superintendent may refuse to grant a permit for the above-named places only if a prior application for use of the same place at the same time has been made and such prior application has been or will be granted. In applying for such permit the applicant shall comply with the provisions of paragraph (b) of this section and shall specify the time and place desired.

(d) *Restricted areas.* Visitors shall not enter restricted areas posted as being

closed to the public, except upon written permission from the Superintendent.

§ 3.21 Public meetings may be held subject to permit in any park area; exceptions.

Public meetings and assemblies may be held and speeches and the expressions of views publicly may be made in any park area other than the areas described in §§ 3.19, 3.20 and 3.22 subject to the condition that an official permit therefor be first obtained. The Superintendent shall forthwith issue a permit for such a place unless a prior application for the same time and place has been made which has been or will be granted, or unless, in his judgment, the permit should be refused because of traffic conditions, or because the particular use to which the area is primarily devoted makes its use for public gatherings contrary to the comfort, convenience and interest of the general public. In applying for such permit, the applicant shall comply with the provisions of § 3.20 (b) and shall specify the time and place desired.

§ 3.22 Areas in which parades and public gatherings are prohibited.

Parades, public gatherings of any kind, and the making of speeches are prohibited in the following places because of traffic conditions, or because the particular purpose to which the area is primarily devoted makes its use for public gatherings contrary to the comfort, convenience and interest of the general public:

(a) Lafayette Park.

(b) Sherman Square.

(c) United States Reservation 617, Fifteenth Street and Pennsylvania Avenue NW.

(d) Farragut Park.

(e) Rawlins Park.

(f) Mount Vernon Park.

(g) Stanton Park.

(h) The paved area in the Mall near Second Street.

(i) State Place.

(j) West and South Executive Avenues.

(k) Franklin Park.

§ 3.23 Policy governing the issuance of permits for public meetings.

(a) In passing upon requests for permits to speak or meet in such park areas, it is expected that the Superintendent will adhere to established departmental policy to exclude absolutely from his consideration any agreement or disagreement with the political or economic views of the proposed speaker. Permits should not be granted, however, in the case of any assemblage which will bring clear and present danger of strife, riot or disorder or which will violate the criminal laws relating to sedition, lewdness or other matters prohibited by law.

(b) For political meetings, the National Capital Parks will furnish no services or facilities beyond those existing on the site, except that the sponsors of the meeting may provide additional services and facilities at their own expense, subject to approval by the Superintendent. The same policy will apply

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with respect to entertainment programs and to patriotic and civic meetings for which an admission fee is charged or at which funds will be solicited or collected.

(c) In the case of civic and patriotic assemblages, and athletic and entertainment programs which are presented as a public service, where no admission is charged and no funds will be solicited or collected, the National Capital Parks office may, within the limits of appropriations, furnish necessary platforms, chairs, music stands, lighting and other equipment as are available and the services of operational employees. At such ceremonial gatherings or events of community interest as the annual Independence Day Celebration at the Monument Grounds, the President's Cup Regatta, and the Cherry Blossom Festival, the National Capital Parks may, despite the fact that charges are made by participating organizations for seats or admission, furnish services and such available equipment as will not in turn be rented to those who attend the affair.

(d) Public meetings are prohibited at the National Memorials except those memorial services which honor the individual to whom the memorial is dedicated.

§ 3.24 Soliciting, advertising, sales.

(a) *Soliciting.* (1) Soliciting of alms and contributions for private gain and of patronage by guides or other persons in park areas is prohibited.

(2) Commercial soliciting of any kind in park areas without an official permit is prohibited.

(b) *Advertising and taking of photographs.* (1) The display or distribution of any form of commercial advertising is prohibited in park areas, except when authorized by official permit in connection with park activities.

(2) No photograph which may include a public monument or memorial shall be taken or used of any commercial vehicle or bus in a park area without an official permit.

(3) The photographing in park areas of models demonstrating wearing apparel or other commercial articles, for reproduction in commercial advertising, without an official permit, is prohibited.

(4) No photographs shall be taken within any military reservation except by holders of official permits and those persons having special permission of the officer in charge.

(5) No photograph of construction in the National Park system shall be taken or used in commercial advertising unless written permission of the Superintendent is obtained.

(c) *Sales.* No sales shall be made nor admission fee charged, and no article shall be exposed for sale in a park area without an official permit.

§ 3.25 Nuisances; disorderly conduct.

Committing a nuisance of any kind or engaging in disorderly conduct within an area covered by this part is prohibited. The following shall include, but shall not be construed to limit acts committed in areas covered by this part which constitute disorderly and unlawful conduct:

(a) *Wrestling.* Scuffling and wrestling in the vicinity of other persons.

(b) *Throwing of breakable articles.* Intentional throwing, dropping or causing to be thrown or dropped, any breakable article such as glass, pottery, or any sharp article which may cause injury to the person or property of others, upon any road, path, walk, parking lot or lawn area in any area covered by this part.

(c) *Throwing of stones.* Throwing stones or other missiles.

(d) *Throwing or dropping objects from Washington Monument.* Throwing or dropping any object from the windows at the top of the Washington Monument, or from the staircase or landings of the Monument, unless authorized by the Superintendent.

(e) *Rubbish.* Placing refuse brought from private property in park receptacles.

(f) *Spitting.* Spitting upon walks or paths.

(g) *Fireworks.* Discharging or setting off fireworks, firearms or other explosives in areas covered by this part: *Provided*, That upon holidays or on special occasions the Superintendent may permit at his discretion, use of such grounds in park areas as he may deem best suited for the purpose of fireworks display and the firing of salutes.

(h) *Unauthorized bathing.* Bathing, swimming or wading in any fountain or pool except where officially authorized. Bathing, swimming, or wading in the Tidal Basin, the Chesapeake and Ohio Canal, or Rock Creek, or entering from areas covered by this part the Potomac River, Anacostia River, Washington Channel or Georgetown Channel, except for the purpose of saving a drowning person.

(i) *Audio devices.* Audio devices including radios, television sets, public address systems and musical instruments, when audible beyond the immediate vicinity of the set or instrument, or when disturbing the quiet of camps, picnic areas, or other public places or gatherings.

(j) *Park benches.* Lying on park benches is prohibited.

(k) *Loitering with intent to remain more than four hours.* Sleeping, loitering or camping, with intent to remain for a period of more than four hours in any park area, is prohibited, except upon proper authorization of the Superintendent.

(l) *Vagrancy.* Habitually using any park area as a place of abode, sleeping therein, loafing therein by day and night by persons having no lawful employment and no lawful means of support realized from a lawful occupation or source and unable to establish the fact of residence elsewhere, is prohibited.

§ 3.26 Indecency, immorality, profanity.

(a) *Indecent exposure.* Obscene or indecent exposure by any male or female of his or her person or their persons, in a street, road, park, or other space or enclosure, or automobile, dwelling or other building within any area covered by this part wherefrom the same may be seen in any street, avenue, alley,

road, or highway, open space, public square, or private building or enclosure is prohibited.

(b) *Urinating or defecating.* Urinating or defecating in any area covered by this part other than the places officially provided therefor is prohibited.

(c) *Adultery and fornication.* Adultery and sexual intercourse with or between unmarried persons in any area covered by this part is prohibited.

(d) *Nuisances; soliciting for immoral purposes.* Addressing, soliciting or attempting to make the acquaintance of another person for immoral or indecent purposes is prohibited in any area covered by this part.

(e) *Profanity.* The use of profane and indecent language within hearing of another person or persons in any area covered by this part is prohibited.

(f) *Other obscene and indecent acts.* The committing of any other obscene or indecent act in any area covered by this part is prohibited.

§ 3.27 Camping.

(a) Camping is permitted only in areas designated by the Superintendent who may establish limitations of time allowed for camping in any public camping ground. Upon the posting of such limitation in the campground, no person shall camp for a period longer than that specified for the particular campground.

(b) Overnight camping is prohibited in picnic grounds unless authorized by the Superintendent in writing.

(c) Campers shall keep their campgrounds clean. Combustible rubbish shall be burned on camp fires, and all other garbage and refuse of all kinds shall be placed in receptacles provided for the purpose.

(d) Campers and picnickers may use dead or fallen timber for fuel when authorized by the Superintendent.

(e) The installation of permanent camping facilities by visitors, or the digging or leveling of the ground in any campsite without the Superintendent's permission is prohibited. Camps must be completely razed and the sites cleaned before the departure of campers.

(f) No camp may be established in an area and used as a base for hunting outside such area.

(g) The Superintendent may establish hours during which quiet must be maintained at any camp, and prohibit the running of motors at or near a camp during such hours.

§ 3.28 Use of liquors; intoxication.

(a) *Drinking in areas covered by this part.* The drinking of beer, wine, or spirituous liquors within areas covered by this part in the District of Columbia, Maryland, and Virginia is prohibited, except with the written permission of the Superintendent.

(b) *Intoxication.* Entering or remaining in an area covered by this part in a visibly intoxicated condition is prohibited.

(c) *Driving motor vehicle while intoxicated.* No person who is under the influence of intoxicating liquor or narcotic drugs shall operate or drive a motor vehicle of any kind in any area covered by this part.

§ 3.29 Laws and regulations applicable to traffic control; enforcement.

(a) *District of Columbia, Maryland and Virginia laws and regulations.* The laws and regulations relating to traffic control promulgated for the District of Columbia and the laws of Maryland and Virginia, respectively, as adopted by the act of June 25, 1948 (62 Stat. 686; Title 18 U.S.C. sec. 13), shall constitute the traffic and motor vehicle regulations enforceable under the act of March 17, 1948 (62 Stat. 81), in all areas covered by this part within their respective geographical limits unless otherwise provided for by act of Congress or the regulations contained in this part: *Provided*, That the traffic regulations adopted by the local governing bodies pursuant to the provisions of the laws of Maryland and Virginia delegating authority to the local governing bodies to adopt such traffic regulations shall not apply; *And provided, further*, That the head of the agency having jurisdiction over the area may fix the speed limits which shall be indicated by signs, markers, and other devices to be erected and maintained by said agency and may fix the weight limits and control the parking of vehicles in such area.

(b) *Enforcement of traffic regulations.* All traffic regulations applicable in areas covered by this part shall be observed by the operators of vehicles, equestrians, and by pedestrians, who shall also comply with official traffic signs and signals, and traffic direction by voice, hand or whistle, from any member of the United States Park Police, Metropolitan Police, Park Rangers or special policemen, properly equipped with police badge on duty in an area covered by this part. These directions may include signals for slowing down, stopping, backing, approaching or departing from any place, the manner of taking up or setting down passengers, and the loading and unloading of any material.

(c) *Special regulations governing parades and other ceremonies in park areas.* On the days of parades, ceremonies, celebrations and entertainments in park areas, special regulations as to parking vehicles and the positions and movements of spectators shall be promulgated by the Superintendent. All persons within the area of such special regulations shall obey or comply with the lawful orders of the park police or other authorized persons engaged in maintaining order.

(d) *Checking on speed by use of electronic device.* The speed of any motor vehicle may be checked on any park road in a park area in the States of Maryland and Virginia by the use of radiomicrowaves or other electrical device when such park road on which such device is used is clearly marked within four miles of such device and at State lines and at primary streets and highways by the posting of signs indicating radar control, when marked "Speed checked by radar."

§ 3.30 Obstructing entrances, exits, sidewalks.

(a) Assembling, loitering and congregating singly or in groups, in or about the entrances and exits to the various areas

covered by this part, or within areas covered by this part, in such a way as to hinder or obstruct the sidewalks, roads, bridges, or bridlepaths, is prohibited.

(b) Congregating or loitering in or about any comfort station or other public structure in any area covered by this part in such a manner as to obstruct the proper use thereof, or to the annoyance of the people using or visiting such structures, is prohibited.

(c) Occupying, parking, stopping or leaving a bicycle, coaster wagon, perambulator, or other similar vehicle in any area covered by this part, on any sidewalk, bridge, road, footpath, or bridle path, in such position as to hinder or obstruct the proper use of the same is prohibited.

§ 3.31 Speed restrictions.

(a) *District of Columbia.* No specific speed limits shall apply to the park roads in park areas in the District of Columbia, unless a speed limit is prescribed for a particular road, or section of roadway, by the posting of official signs.

(b) *Maryland and Virginia.* The speed limits prescribed by the States of Maryland and Virginia shall constitute the speed restrictions on park roads in areas covered by this part within their respective geographical limits, unless a lesser speed limit is prescribed for a particular road, or section of road, by the posting of official signs.

§ 3.32 Reckless driving; prohibited operations.

Persons operating motor vehicles within areas covered by this part shall drive in a safe manner. The following are prohibited:

(a) Driving carelessly and heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property.

(b) Failing to keep any vehicle under proper control.

(c) Operating any vehicle in such a manner as to cause same to collide with another vehicle, person, fixed or moving object.

(d) Driving on wrong side of street or road.

(e) Following another vehicle too closely to permit clear vision of road ahead or sufficient distance in which to stop within the assured clear distance ahead.

(f) Operating a motor vehicle in grossly unsafe mechanical condition.

(g) Operating a closed passenger-carrying vehicle with side shades or curtains drawn more than half way, except when going to or returning from a funeral or when necessary as protection from the elements.

(h) Operating a motor vehicle when the rear windows are cracked, scarred, clouded or otherwise obscured or defective so as substantially to obstruct vision.

(i) Operating a motor vehicle when either or both identification tags thereon are obscured by snow, mud or other matter.

(j) Changing from one lane of traffic to another without proper and timely

signal and due regard to the traffic on the roadway. Every person operating a motor vehicle shall stay within one lane of traffic as much as possible, that lane to be the one nearest the right edge of the road; and he shall determine in advance, before changing from the lane in which he is driving, that the condition of traffic is such as to make it safe to change. He shall furthermore have the duty of giving a timely signal before changing from one lane to the other.

(k) Making or executing a left turn with any motor vehicle from any one-way road in an area covered by this part from any lane other than that nearest the left curb or edge of the roadway.

(l) Operating or driving or stopping a motor vehicle on any footpath, bridlepath, towpath, walk, sidewalk, footbridge, horsebridge, or lawn area within an area covered by this part.

CROSS REFERENCE: For driving vehicle while intoxicated, see § 3.28(c).

§ 3.33 Parking restrictions; impounding of vehicles.

(a) *General provisions—(1) Undesignated spaces.* Driving over or parking on an area covered by this part other than a road, street or a designated parking space, whether such is grassed or not, is prohibited.

(2) *Official signs.* Stopping, standing or parking in any area covered by this part contrary to the direction of official signs, is prohibited.

(3) *Night parking.* Parking of vehicles between dark and daylight in an area covered by this part where no lighting equipment is installed, is prohibited.

(4) *Screened windows.* Stopping or parking motor vehicles upon any road in any area covered by this part, by day or by night, with windows screened or curtains drawn so as to obscure or conceal the interior of the vehicle, is prohibited.

(5) *Constitution Avenue and Nineteenth Street.* Between the hours of 4 p. m. and 6 p. m. on any day, except Sundays and legal holidays, no driver of a vehicle shall stop, stand, or park to take on or discharge a passenger or passengers, on the south side of Constitution Avenue Northwest, between the east curb line of Nineteenth Street and a point 100 feet in an easterly direction.

(6) *Parades.* Parking on roads in a park area through which a parade will pass two hours prior to the moving of such parade is prohibited. The placing of an official sign by the park police on a park road or in a parking zone by 7 a. m. on the day a parade is to take place, informing the public of the time to vacate the park road or parking zone shall be sufficient notice; and if the owner or person in charge of any vehicle shall fail and neglect to remove such vehicle before or by the time specified on the sign, he shall be subject to prosecution.

(7) *Gutters.* Driving or parking in gutters in areas covered by this part where no curb exists, is prohibited.

(8) *Trees and shrubs.* Parking in any area covered by this part which involves contact with any tree, shrub or plant, or with its exposed roots, is prohibited.

(b) *Parking on public ground within District of Columbia; penalty.* No vehi-

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cle of any kind shall be parked, stored, or left, whether attended or not, on any park area in the District of Columbia, other than park roads and designated public parking spaces, except when authorized by official permit. Any person violating the provisions of this paragraph, shall, upon conviction thereof, be punished by a fine of not more than \$25.

(c) *Impounding of illegally parked vehicles.* Any unattended vehicle parked in any area covered by this part in violation of any traffic law or regulation; except short-term overtime parking, may, in the discretion of the park police, be removed and impounded until the owner thereof, or other duly authorized person, shall deposit collateral for his appearance in court. A storage fee of one dollar per day may be charged for impounded vehicles left in police custody longer than 7 days. Vehicles left longer than 90 days shall be disposed of as abandoned to the United States.

CROSS REFERENCE: For place of trial, see § 3.6.

§ 3.34 Traffic signs.

Drivers of all vehicles shall comply with the directions of all official traffic signs posted in areas covered by this part.

§ 3.35 Washing of cars prohibited.

Washing, cleaning, lubricating, repairing or performing any mechanical work upon vehicles within park areas is prohibited, except in case of emergency.

§ 3.36 Commercial vehicles and common carriers.

(a) *Operation in park areas prohibited; exceptions.* Commercial vehicles and common carriers, loaded or unloaded, are prohibited on park roads and bridges except on roads designated by order of the Superintendent, or when authorized by official permit in an emergency, or when operated in compliance with paragraphs (b), (c) or (d) of this section.

(b) *George Washington Memorial Parkway; passenger-carrying vehicles; permits; fees.* (1) Taxicabs licensed in the District of Columbia, Maryland or Virginia, shall be permitted on any portion of the George Washington Memorial Parkway.

(2) Passenger carrying buses for hire or compensation shall be permitted on the George Washington Memorial Parkway upon application for, and the granting of a permit by the Superintendent, National Capital Parks, issued on an annual basis, effective from April 1 until the following March 31, at the rate of \$3 for each passenger-carrying seat in every vehicle so operated. Such permits may be issued (i) to provide passenger service on any portion between Mount Vernon and the Arlington Memorial Bridge, (ii) to provide limited direct non-stop passenger service between Key Bridge and the Central Intelligence Agency Building at Langley, Virginia, and (iii) to provide limited direct non-stop passenger service between the interchange at Route 123 and the Central Intelligence Agency Building at Langley, Virginia.

(c) *Commercial trucks.* The use of any park road by commercial trucks when such trucking is in no way connected with the operation of the park system is prohibited, except that in special cases trucking permits may be issued at the discretion of the Superintendent.

(d) *Taxicabs—(1) Operations around memorials.* Parking, except in officially designated taxicab stands, or cruising on the access roads to the Washington Monument, the Lincoln Memorial, the Jefferson Memorial, and the circular roads around the same, of any taxicab or hack without passengers is prohibited. However, this section shall not be construed to prohibit the operation of empty cabs responding to definite calls for hack service by passengers waiting at such Memorials, or of empty cabs which have just discharged passengers at the entrances of the Memorials, when such operation is incidental to the empty cabs leaving the area by the shortest route.

(2) *Stands.* Taxicab stands to serve the public convenience may be established by order of the Superintendent in suitable and convenient places.

(e) The provisions of this section prohibiting commercial trucks and common carriers shall not apply within "other Federal reservations", in the environs of the District of Columbia, as defined in § 3.4(b), and shall not apply on that portion of Suitland Parkway between the intersection with Maryland Route 337 and the end of the Parkway at Maryland Route 4, a length of 0.6 mile.

§ 3.37 Vehicles; weight and tread restrictions.

(a) *Maximum weight.* No vehicle, the weight of which including load, exceeds the officially posted weight limit appearing at or on the bridge, shall cross any bridge in any area covered by this part unless authorized by an official permit.

(b) *Permissible solid tires.* (1) No vehicle equipped with solid rubber tires shall be driven or moved over any road in any area covered by this part unless the entire traction surface of the tire is at least 1 inch thick above the edge of the flange for the entire periphery of the tire.

(2) No vehicle equipped with steel tires, loaded or unloaded, shall be driven or moved over any road in any area covered by this part if the total gross weight is in excess of 6,000 pounds.

(c) *Prohibited treads.* There shall not be operated or moved upon any road in any area covered by this part, except by hauling on an approved type of conveyance, any vehicle of any kind the face of the wheels, or tracks of which are fitted with flanges, ribs, clamps, cleats, lugs, spikes or any device which may tend to injure the roadway. This prohibition applies to all rings or flanges upon guiding or steering wheels on any such vehicle but it shall not be construed as preventing the use of ordinary detached tire or skid chains.

§ 3.38 Tampering with vehicles prohibited.

Tampering with or attempting to enter or start any motor vehicle parked in any area covered by this part, without au-

thority from the owner of such vehicle, is prohibited.

§ 3.39 Prevention of smoke.

The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

§ 3.40 Bicycling, roller skating and coasting restrictions.

(a) *Bicycling.* Bicycle riding, except upon the roads or other areas designated by order of the Superintendent to be used for that purpose, is prohibited. Walking, driving, or riding bicycles or motorcycles on bridlepaths, is prohibited.

(b) *Roller skating.* Roller skating, except upon areas designated by order of the Superintendent to be used for that purpose, is prohibited.

(c) *Coasting.* The operation of sleds, sleighs, scooters, coaster wagons, or similar vehicles by children or adults on any road, walk, bridle path, bridge, or lawn area, other than those places designated by order of the Superintendent to be used for such purposes, is prohibited.

(d) The provisions of this section shall not apply within "other Federal reservations", as defined in § 3.4(b).

CROSS REFERENCE: For regulations with respect to parking, stopping, or leaving of any vehicle, such as a bicycle or coaster wagon, on any sidewalk or other public thoroughfare, see § 3.30(c).

§ 3.41 Boating.

(a) No privately owned boat, canoe, raft, or other floating craft shall be placed or operated upon the waters of any area covered by this part without an official permit. Such permit will be revoked upon the failure of the permittee to comply with the terms and conditions of the permit and the permittee will be required to immediately remove his craft from the area. The provisions of this section shall not apply to the operation of canoes and other hand-propelled boats in the waters of the Chesapeake and Ohio Canal.

(b) Garbage, litter, or other waste shall not be dropped or thrown from vessels, or from shore, into park waters, but shall be disposed of on shore at designated locations in a manner prescribed by the Superintendent.

(c) Wastes from toilets or galleys shall not be discharged within one half mile of low water line along the shore, or one half mile from any water supply intake, and the Superintendent may restrict any water area if a public health hazard develops or the deterioration of esthetic values becomes apparent.

(d) Every vessel or craft operating in Park waters which is propelled by internal combustion engines shall be equipped with a muffler so constructed as to prevent any unnecessary or prolonged, intense noise in the operation or management of such vessel and the said muffler shall not be removed, cut out, or put out of operation for any purpose whatsoever, except during authorized Regattas. Nothing contained in this paragraph shall apply to vessels equipped with underwater exhausts or to vessels discharging water through open exhaust pipes so

long as these methods of silencing the exhaust are effective.

§ 3.42 Swimming, water skiing etc.

Swimming from unanchored boats is prohibited. Children under the age of 12 years, when in the water shall wear approved life preservers; water skiers, when being towed, shall wear life belts or life preservers.

§ 3.43 Collection of scientific specimens.

Collection of natural objects for scientific or educational purposes shall be permitted only in accordance with an official permit. No permits will be issued to individuals or associations to collect specimens for personal use, but only to persons officially representing reputable scientific or educational institutions in procuring specimens for research, group study, or museum display. Permits will be issued only on condition that the specimens taken will become part of a permanent public museum or herbarium collection, or will in some suitable way be made permanently available to the public. No permits may be granted for the collection of specimens the removal of which would disturb the remaining natural features or mar their appearance. Permits to secure rare natural objects will be granted by the Director only upon proof of special need for scientific use and of the fact that such objects cannot be secured elsewhere: *Provided, however, That the provisions of this section shall not apply within "other Federal reservations", as defined in § 3.4 (b).*

§ 3.44 Lost and found articles.

(a) Lost articles or money which are found in areas covered by this part shall be immediately referred to the police official in charge of the area where the article was discovered. Proper records shall be kept at Police Headquarters of the receipt and disposition of such articles. If an article or money found on park areas and referred to Park Police Headquarters is not claimed by the owner within a period of 60 days, it shall be returned to the finder and appropriate receipt obtained; except, that in the case of Force and National Capital Parks employees, items turned in which are not claimed by the owner within 90 days shall be considered as abandoned to the United States and reported to the nearest representative of the General Services Administration for disposition. In no case will found articles be returned to the employees who found them.

(b) The abandonment of any personal property in any of the park areas is prohibited.

§ 3.45 Photography; restrictions.

(a) *Frivolous and undignified posing.* Photographing of persons posing in a frivolous or undignified manner within, upon, or by, any National Memorial, is prohibited.

(b) *Use of tripod or other devices.* The use of a tripod or other device for the support of the camera or other instrument on the floors or steps of any memorial, or other park structure, is prohibited, unless the tripod or device is equipped in such a manner as will prevent scratching or other damage.

(c) *Motion or sound pictures.* Before any motion or sound pictures may be filmed in any park area except by amateurs and bona fide newsreel photographers, authority must first be obtained in writing from the Superintendent, which authority will be granted in the discretion of the Superintendent in accordance with the provisions of 43 CFR Part 5.

CROSS REFERENCE: For use of pictures taken in park areas for commercial advertising, see § 3.24 (b) (2) and (3).

§ 3.46 Discrimination in furnishing public accommodations and in using park areas.

The operator of any public facility or accommodation in a park area and its employees, including the District of Columbia Recreation Board and its personnel, while using park areas are prohibited from (a) publicizing the facilities, accommodations or any activity conducted therein in any manner that would directly or inferentially reflect upon or question the acceptability of any person or persons because of race, creed, color, or national origin; and (b) discriminating by segregation or otherwise against any person or persons because of race, creed, color, or national origin by refusing to furnish such person or persons any accommodation, facility, service, or privilege offered to or enjoyed by the general public.

§ 3.47 Installation permits.

(a) *Permit required.* No facility, utility, works, building, or other installation may be installed or maintained in a park area without an official permit designated as an "installation permit".

(b) *Application and permit.* (1) Application for "installation permit" shall be made in the form prescribed by the Superintendent of National Capital Parks.

(2) "Installation permits" may be issued by the Superintendent of National Capital Parks and shall be subject to the payment of such fees and such conditions of location, relocation, removal, maintenance, restoration, design, materials, method of construction, time, expiration, termination, and other requirements as may be prescribed in the permit or by regulations of the Secretary of the Interior and instructions issued thereunder. The Superintendent may require a cash or surety bond acceptable to him in such amount as he deems adequate to insure full compliance with the conditions of the installation permit.

(3) All permittees must comply with all Federal and applicable local laws and all regulations of the Secretary of the Interior relating to park areas.

(4) An "installation permit" may be revoked and the removal of the installation required by the Superintendent of National Capital Parks, with the approval of the Director of the National Park Service or the Secretary of the Interior, by mailing to the permittee written notice to that effect at least 30 days prior to the effective date of the revocation of the permit.

(c) *Appeals from administrative action.* Appeals from action relating to "installation permits" issued pursuant to

paragraph (b) of this section may be taken from any administrative action by filing with the Superintendent a written request for reconsideration thereof or notice of appeal. Administrative action of the Superintendent shall be final unless an appeal is taken therefrom within 30 days by filing with the Superintendent a written notice of appeal and a statement setting forth in detail the reasons why the administrative action taken by the Superintendent is contrary to or in conflict with the facts, the law, or the regulations of the Secretary. Upon receipt of such a statement the Superintendent shall submit a statement reviewing the case and presenting the facts and considerations upon which his action is based. The two statements together with all papers comprising the record in the case shall then be transmitted to the Director who shall review the case and will thereupon refer the case with his recommendations to the Secretary for a final decision. The Secretary will thereupon consider the case and recommendations from the Director and advise both the appellant and the Superintendent of his decision.

§ 3.48 Making false reports to the United States Park Police.

Any person who shall make or cause to be made to the United States Park Police or to any officer or member thereof, a false or fictitious report of the commission of any criminal offense within any area administered by the Office of National Capital Parks, or a false or fictitious report of any other matter or occurrence of which said United States Park Police is required to receive reports or in connection with which said United States Park Police is required to conduct an investigation, knowing such report to be false or fictitious, or shall communicate or cause to be communicated to the said United States Park Police or any officer or member thereof any false information concerning the commission of any criminal offense within any area administered by the Office of National Capital Parks, or concerning any other matter or occurrence of which said United States Park Police is required to receive reports, or in connection with which said United States Park Police is required to conduct an investigation, knowing such information to be false, shall be punished as provided in § 3.5.

§ 3.49 Dangerous weapons.

(a) Carrying or possessing, while in any area covered by this part, a gun, air-gun, bow and arrow, sling, dart, projectile thrower, knife with blade exceeding three (3') inches in length, or other dangerous instrument or weapon; except that the prohibition with regard to the possession and carrying of bows, arrows, and firearms shall not apply to the Chesapeake and Ohio Canal lands above Swain's Lock in the State of Maryland, when such bows are unstrung, the arrows in quivers, and such firearms are unloaded or broken or encased and the party or parties in possession thereof are crossing canal property to gain access to legal shooting areas on private properties by the most direct and shortest route: *Provided, That nothing in this*

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paragraph shall be construed as to prevent the drill or activities of any organized military or semi-military body under an official permit, and the use of bows and arrows by park visitors on officially established archery ranges.

(b) The Superintendent may, in his discretion, permit the carrying of firearms by employees under his administrative jurisdiction when such possession is deemed necessary in the performance of their official duties.

(c) Authorized law enforcement officers may carry unsealed firearms while engaged in the enforcement of Federal or State laws and regulations, or when otherwise necessary in the performance of their duties.

§ 3.50 Fires.

(a) On public campgrounds and picnic areas wood fires shall be lighted only in the established fireplaces constructed for the convenience of visitors except when otherwise authorized by official permit.

(b) For cooking purposes charcoal grilles, gasoline or gas stoves may be used in public campgrounds and picnic areas.

(c) Due diligence shall be exercised in building and putting out fires and the disposal of charcoal to prevent damage to trees and vegetation and to prevent forest and grass fires.

(d) Smoking, or the building of fires, may be prohibited or limited by the Superintendent when, in his judgment, the fire hazard makes such action necessary.

§ 3.51 Sanitation.

(a) Campers and others shall not wash clothing or cooking or eating utensils in, or otherwise pollute or contaminate the waters of the areas.

(b) The washing of cooking or eating utensils and the cleaning of fish at water hydrants or drinking fountains is prohibited.

(c) Garbage, papers, or refuse of any kind shall not be thrown or left anywhere except in receptacles officially provided for such purpose.

(d) All comfort stations shall be used in a clean and sanitary manner.

§ 3.101 Schedule of minimum collateral (General Order No. 68).

(a) Hereafter persons arrested and taken to the Headquarters of the United States Park Police or to the Metropolitan Police precinct stations for violation of certain regulations promulgated for the protection of the Park System of the District of Columbia, as set forth on the Schedule of Minimum Collateral attached hereto, will be handled as follows:

(1) The decision as to whether an individual arrested shall be permitted to deposit collateral will rest with the official then in charge of the Force, who shall be guided in his decision by consideration of existing rules and laws governing incarceration of prisoners, and the customs of the community. Determination as to whether collateral shall be required in an amount greater than

the minimum provided in the Schedule of Minimum Collateral, will rest with the decision of the official then in charge of the Force.

(2) Experience since 1938 has clearly demonstrated that permitting the forfeiture of collateral for minor offenses has eliminated the necessity for the police force to appear in court, if the person arrested elects to forfeit. As in the past, forfeiture of collateral for violation of National Capital Parks Regulations will be handled in a manner similar to forfeiture of collateral for violation of certain Metropolitan Police regulations.

(3) Whenever a U.S. Park Policeman makes an arrest for an offense covered by the attached schedule, he will follow up the case and notify this office of the

disposition of the case as promptly as possible.

(b) An order has been issued by the Honorable George P. Barse, Chief Judge of the Municipal Court for the District of Columbia, as of December 6, 1947, adopting the schedule of minimum collaterals attached to this section as the official collateral list until further order of the Court.

(c) General Order No. 24, dated April 28, 1938, is hereby revoked as of the effective date of this section.

(d) This section shall become effective as of May 1, 1950, and shall, together with the attached Schedule of Minimum Collateral, be published in the *FEDERAL REGISTER* (30 Stat. 570, as amended; 40 U.S.C. 79).

SCHEDULE OF MINIMUM COLLATERAL

A schedule of minimum collateral to be accepted for violations of certain regulations promulgated for the protection of the park system of the District of Columbia, in accordance with the provisions of the act of Congress, approved July 1, 1898 (30 Stat. 570), as amended:

| Violations | N. C. P. regulations | Collateral |
|--|----------------------|------------|
| Animals, domestic or wild: | | |
| Unlicensed or unmuzzled dogs. | 3.11 (a) | \$5.00 |
| Unleashed dogs or cats. | 3.11 (b) | 2.00 |
| Permitting dogs or cats to commit a nuisance on playgrounds, trees, shrubs, plants, lawns, sidewalks, footpaths, or in flower beds, buildings, or in any other park area, except in park roadways. | 3.11 (c) | 2.00 |
| Horses: Leaving unbridled and unattended. | 3.12 (a) | 2.00 |
| Horses: Riding, driving, or leading without reins in hand. | 3.12 (b) | 2.00 |
| Horses: Riding of more than two abreast. | 3.12 (c) | 2.00 |
| Horses: Allowing to move over lawn areas. | 3.12 (d) | 2.00 |
| Horses: Fast or reckless riding or driving and failure to bring to a walk or slow trot before passing pedestrians. | 3.12 (e) | 2.00 |
| Hitch, tie, or fasten any horse or animal to any public lamp post or appurtenance thereof. | 3.8 (a) | 2.00 |
| Hitch, tie, or fasten any horse or animal to, or within reach of, any tree, shrub, plant, tree-box or tree guard. | 3.10 (b) | 2.00 |
| Grazing or permitting the running loose of animals except with official permission. | 3.13 | 5.00 |
| Hunting, trapping, catching, killing, pursuing, or needlessly disturbing any birds, water-fowl or wild animal except upon proper authorization. | 3.18 (a) | 6.00 |
| Athletics: | | |
| Playing of baseball, football, tennis, golf, or other set games, except upon grounds provided under official permit. | 3.15 (a) | 2.00 |
| Playing on grounds wet or otherwise unsuitable for play without damage to turf. | 3.15 (b) | 2.00 |
| Unauthorized use of golf or tennis facilities where fee has been prescribed. | 3.15 (c) | 2.00 |
| Archery: Use of bows and arrows except in park areas designated by order of the Superintendent. | 3.15 (d) | 2.00 |
| Ice Skating: Fast and reckless skating, failing to abide by directions of the Park Police. | 3.15 (e) | 2.00 |
| Bicycles: Riding except upon the roads or designated areas. | 3.10 (a) | 2.00 |
| Boating: Permitting privately owned boat, canoe, raft, or floating craft to be operated upon waters in park area without official permission. | 3.11 | 2.00 |
| Camping: Camping, loitering, or sleeping with intent to remain more than 4 hours except upon proper authorization of the Superintendent. | 3.25 (k) | 5.00 |
| Comfort stations (revised Aug. 19, 1946): | | |
| Loiter in. | 3.9 (a) | 5.00 |
| Improper use of. | 3.9 (b) | 5.00 |
| Interfere with attendant. | 3.9 (c) | 5.00 |
| Destruction of property therein. | 3.9 (d) | 10.00 |
| Commercial activities: | | |
| Soliciting of alms and contributions for private gain. | 3.24 (a) | 5.00 |
| Soliciting of patronage by guides or other persons. | 3.24 (a) | 5.00 |
| Display or distribution of any form of commercial advertising without permission. | 3.24 (b-1) | 2.00 |
| Photographing a public monument or memorial that includes any commercial vehicle or bus, without permission. | 3.24 (b-2) | 2.00 |
| Photographing models demonstrating wearing apparel or other commercial articles, without permission. | 3.24 (b-3) | 2.00 |
| Selling, exposing article for sale, or charging admission fee, without permission. | 3.24 (c) | 2.00 |
| Fishing: | | |
| Fishing in fountain basins and ornamental pools. | 3.18 (d) | 2.00 |
| Fishing from the banks of the Potomac River, Anacostia River, Rock Creek, Washington Channel, Chesapeake and Ohio Canal or other waters within park areas where such banks have been posted with official signs prohibiting fishing. | 3.18 (e) | 2.00 |
| Unlicensed fishing where license is required by State laws. | 3.18 (c) | 2.00 |
| Fishing in the Tidal Basin between Mar. 31 and May 30. | 3.18 (d) | 2.00 |
| Gambling: Participating in games for money or property, or the operating of gambling devices for merchandise or otherwise. | 3.17 | 5.00 |
| Indecency, immorality, profanity: | | |
| Committing obscene or indecent acts. | 3.26 | *25.00 |
| (a and f) | | |
| Urinating or defecating in any place other than the places officially provided therefor. | 3.26 (b) | 5.00 |
| Committing adultery or fornication in park areas. | 3.26 (c) | 25.00 |
| Addressing, soliciting or attempting to make the acquaintance of another person for immoral or indecent purposes. | 3.26 (d) | *25.00 |
| Using profane or indecent language. | 3.26 (e) | 5.00 |
| Lamps and lampposts: | | |
| Breaking any lantern, glass, frame, street designation or fixture on public land. | 3.8 (a) | 5.00 |
| Remove, extinguish or obstruct the light in any public lamp. | 3.8 (b) | 5.00 |
| Climbing upon, damaging, attaching guy line or sign, defacing or piling material against a public lampost. | 3.8 (c) | 5.00 |
| Liquors, use of: Drinking beer, wine or spirituous liquors except at places licensed for the sale thereof. | 3.28 (a) | 5.00 |
| Lying upon park benches. | 3.25 (j) | 2.00 |

| Violations | N. C. P. regulations | Collat- eral |
|---|-------------------------|-----------------|
| Meetings and demonstrations: | | |
| Holding of parades or public gatherings without permission except in designated park areas. | 3.19 (a) | \$10.00 |
| Holding public meetings and assemblies in available park areas, without permission. | 3.20 (a) | 10.00 |
| Holding parades, public gatherings of any kind and the making of speeches in restricted park areas. | 3.22 | 15.00 |
| Nuisances: | | |
| Committing a nuisance of any kind or engaging in disorderly conduct in park areas prohibited. | 3.25 | 5.00 |
| Scuffling and wrestling in the vicinity of other persons. | 3.25 (a) | 5.00 |
| Intentional throwing or dropping of breakable articles. | 3.25 (b) | 5.00 |
| Throwing stones or other missiles. | 3.25 (c) | 5.00 |
| Throwing or dropping any object from windows at the top of Washington Monument or from staircase landings. | 3.25 (d) | 5.00 |
| Throwing or leaving paper, fruit skins, or other rubbish except in receptacles officially provided for same. | 3.51 (c) | 2.00 |
| Placing refuse from private property in officially provided receptacles for park refuse. | 3.25 (e) | Sec. |
| Spitting upon sidewalks or paths. | 3.25 (f) | 5.00 |
| Discharging fireworks, firearms or other explosives without official permission. | 3.25 (g) | 2.00 |
| Bathing, swimming or wading in any fountain or pool except where officially authorized. | 3.25 (h) | 2.00 |
| Carrying or possessing, while in any park area, a gun, air gun, sling, dart, projectile thrower, knife with blade exceeding 3 inches, or other dangerous weapon. | 3.49 (a) | 5.00 |
| Obstructing entrances, exits, sidewalks: Occupying roads, highways, bridges, walks, footpaths, or bridle paths in such a manner as to hinder or obstruct their proper use. | 3.50 (a-c) | 5.00 |
| Photographing other than commercial; restrictions: | | |
| Photographing of persons posing in a frivolous or undignified manner within, upon, or by, any National Memorial. | 3.45 (a) | 5.00 |
| Using tripod or other device for the support of camera or other instrument on the floors or steps of any memorial unless equipped to prevent scratching or other damage. | 3.45 (b) | 5.00 |
| Making motion or sound pictures without permission, excepting amateurs and bona fide newsreel photographers. | 3.45 (c) | 5.00 |
| Picnics: | | |
| Preventing holders of official permits from occupying groves on dates and between hours specified. | 3.14 (a) | 2.00 |
| Building fires in areas other than established fireplaces, without permission. | 3.50 (a) | 2.00 |
| Leaving garbage and refuse in park areas other than receptacles provided for same. | 3.14 (c) | 2.00 |
| Public property: | | |
| Climbing upon or injuring any monument or structure. | 3.7 (a) | 5.00 |
| Interfering with water system. | 3.7 (b) | 5.00 |
| Removing of lifebuoys except for the purpose of aiding persons in the water. | 3.7 (c) | 2.00 |
| Injury to lawns, short cuts. | 3.7 (d-e) | 2.00 |
| Removing, tampering with or damaging any official or public sign. | 3.7 (f) | 5.00 |
| Dumping without authority. | 3.7 (g) | 2.00 |
| Storing material without authority. | 3.7 (h) | 10.00 |
| Enclose any park area or erect any fence, wall, or build any road, trail, bridge or other structure, without authority. | 3.7 (i) | 10.00 |
| Pour or cause to spill on park area, any gas, salt, acid or other deleterious substance, without authority. | 3.7 (j) | 10.00 |
| Remove or damaging Government property. | 3.7 (k) | 5.00 |
| Roller skating and coasting: | | |
| Roller skating except in designated areas. | 3.40 (b) | 2.00 |
| Operating sleds, sleighs, scooters, coaster wagons or similar vehicles except in designated areas. | 3.40 (c) | 2.00 |
| Scientific specimens, collection of: Collecting of natural objects without permission. | 3.43 | 2.00 |
| Traffic and motor vehicles: | | |
| Cleaning or repairing except in cases of emergency. | 3.35 | 2.00 |
| Driving or parking in gutters where no curb exists. | 3.33 (a-7) | 2.00 |
| Driving or parking on any footpath, bridlepath, towpath, walk, sidewalk, footbridge, horsebridge or lawn area. | 3.32 (l) | 2.00 |
| Driving over or parking on park area other than road, street, or designated parking space, whether such is grassed or not. | 3.33 (a-1) | 2.00 |
| Left turn from one-way road, from any lane other than lane nearest left curb or edge of roadway. | 3.32 (k) | 2.00 |
| Operation of passenger-carrying vehicles with curtains drawn more than halfway down, except for funerals or protection from the elements. | 3.31 (g) | 2.00 |
| Operating a motor vehicle when either or both identification tags thereon are obscured by snow, mud or other matter. | 3.32 (l) | 2.00 |
| Operating commercial vehicles in park area without official permit. | 3.36 (a-c) | 5.00 |
| Operating vehicle without adjustment to prevent excessive fumes or smoke. | 3.39 | 5.00 |
| Cruising taxicabs in restricted areas. | 3.36 (d) | 5.00 |
| Parking at night in unlighted park areas. | 3.33 (a-3) | 2.00 |
| Parking with windows screened or curtains drawn, in park areas. | 3.33 (a-4) | 2.00 |
| Parking which involves contact with any tree, shrub, plant, or with its exposed roots. | 3.33 (a-8) | 2.00 |
| Unauthorized parking in park area. | 3.33 (b) | 2.00 |
| Tampering with or attempting to enter or start any motor vehicle without authority from the owner. | 3.38 | 2.00 |
| Operating vehicles without permission across bridges when the weight, which includes load, is in excess of officially posted weight limit sign. | 3.37 (a) | 2.00 |
| NOTE: Traffic violators charged with violations of the traffic regulations promulgated for the District of Columbia, and applicable to all park areas within the confines of the District of Columbia, will be required to post collateral in accordance with the official list of minimum collateral requirements for such violations. | | |
| Trees, shrubs, plants: | | |
| Removing or injuring trees, shrubs, plants, grass and other vegetation. | 3.10 (a) | 5.00 |
| Hit, tie, fasten, nail, anchor, screw, or otherwise attach any wire, cable, chain, rope, card, sign, poster advertisement, notice, handbill, board or other article to any tree, shrub, or plant, without permission. | 3.10 (c) | 2.00 |
| Vagrancy: Sleeping, loafing, in park areas by day and night by persons having no lawful employment and no lawful means of support realized from a lawful occupation and unable to establish residence. | 3.25 (l) | 10.00 |

NOTE 1: Where the specified cash collateral is \$25 or more, the amount of bond in lieu of said cash collateral shall be \$1.00.

NOTE 2: Attention is directed to the fact that the foregoing amounts represent only "minimum" collateral. This amount may be increased depending on the seriousness of the violation, this is particularly true in cases of violations preceded by the (*) asterisk.

PART 4—NATIONAL CEMETERY REGULATIONS

NOTE: For notice of proposed rule-making relating to a revision of the national cemetery regulations, see 24 F.R. 9547.

PART 5—PRIVATE LANDS SUBJECT TO EXCLUSIVE JURISDICTION OF THE UNITED STATES.

AUTHORITY: §§ 5.1 to 5.8 issued under sec. 3, 39 Stat. 535, as amended; 16 U.S.C. 3.

§ 5.1 Applicability.

The regulations in this part shall be applicable to privately owned lands within the following national parks, exclusive jurisdiction over which is vested in the United States: Crater Lake, Glacier, Lassen Volcanic, Mesa Verde, Mount McKinley, Mount Rainier, Olympic, Rocky Mountain, Sequoia-Kings Canyon, Yellowstone, and Yosemite.

§ 5.2 Fishing.

(a) Any person fishing in the waters of the parks listed in § 5.1 shall secure a sport fishing license as required by the laws of the State in which such waters of the park are situated, except that no such said license shall be required of any person fishing in the waters of Glacier, Mount McKinley, Mount Rainier, Olympic, and Yellowstone National Parks.

(b) All fishing in the waters of the parks listed in § 5.1 shall be done in conformity with the laws of the State or territory in which such waters of the park are situated regarding open seasons, size of fish, and the limit of catch, except as otherwise provided in the following paragraphs:

(c) Fishing with nets, seines, traps, or by the use of drugs or explosives, or for merchandise or profit, or in any other way than with hook and line, the rod or line being held in the hands, is prohibited.

(d) Fishing in particular waters may be suspended, or restricted, in regard to the use of particular kinds of bait under special regulations.

(e) The number of fish that may be taken by one person in any one day from the various lakes and streams shall be limited to 10 fish, unless otherwise provided by special regulations.

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(f) Possession of more than 2 days' catch by any person at any one time is prohibited, unless otherwise provided by special regulations.

(g) No fish less than 6 inches long may be retained unless a different limit be established by special regulations. All fish hooked less than such limit in length shall be carefully handled with moist hands and returned at once to the water if not seriously injured. Undersized fish retained because seriously injured shall be counted in the number of fish which may be taken in one day.

(h) The possession of live or dead minnows, chubs, or other bait fish, or the use thereof as bait, is prohibited.

(i) The canning or curing of fish for the purpose of transporting them out of any of the said parks is prohibited.

(j) The possession of fishing tackle or fish upon or along any waters closed to fishing shall be *prima facie* evidence that the person or persons having such fishing tackle or fish are guilty of unlawful fishing in such closed waters.

(k) State fishing licenses, where required, and all fish taken shall be exhibited, upon demand, to any person authorized to enforce the provisions of the regulations in this part.

§ 5.3 Fires.

(a) Fires on privately owned lands within any of the parks listed in § 5.1 shall not be kindled near or on the roots of trees, dead wood, moss, dry leaves, forest mold, or other vegetable refuse, but in some open space on rocks or earth. On public campgrounds the regular fireplaces constructed for the convenience of visitors shall be used. Should camp be made in a locality where no such open space exists or is provided, the dead wood, moss, dry leaves, etc., shall be scraped away to the rock or earth over an area considerably larger than that required for the fire.

(b) Fires shall be lighted on privately owned lands within the said parks only when necessary, and, when no longer needed, shall be completely extinguished, and all embers and beds smothered with earth or water, so that there remains no possibility of reignition.

(c) Permission to burn in connection with any clean-up operation on privately-owned lands within the said parks shall first be obtained, in writing, from the office of the superintendent, and in such cases as it is deemed advisable such burning will be under Government supervision. All costs of suppression and all damage caused by reason of loss of control of such burning operations shall be paid by the person or persons to whom such permit has been granted.

(d) No lighted cigarette, cigar, pipe heel, match, or other burning material shall be thrown from any vehicle or saddle horse or dropped into any grass, leaves, twigs, tree mold, or other combustible or inflammable material on any privately owned lands within any of the said parks.

(e) The building of fires on privately owned lands within the said parks may be prohibited or limited by the superintendent when, in his judgment, the hazard makes such action necessary.

§ 5.4 Protection of wildlife.

(a) The parks are sanctuaries for wildlife of every sort, and all hunting, or the killing, wounding, frightening, capturing, or attempting to kill, wound, frighten, or capture at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited on privately owned lands within the parks listed in § 5.1.

(b) Unauthorized possession on privately owned lands within any of the said parks of the dead body, or any part thereof, of any wild bird or animal shall be *prima facie* evidence that the person or persons having the same are guilty of violating this section.

(c) The carcasses of animals or birds or parts thereof, unlawfully taken or possessed on privately owned lands within any of the said parks, shall be seized and shall be disposed of as the superintendent may prescribe.

(d) During the hunting season, arrangements shall be made at entrance stations to identify and transport within or through the said parks, where necessary, the carcasses of birds or animals legally killed outside the parks.

§ 5.5 Firearms.

Firearms, explosives, traps, seines, and nets are prohibited on privately owned lands within the parks listed in § 5.1, except upon written permission of the superintendent.

§ 5.6 Gambling.

Gambling in any form, or the operation of gambling devices, whether for merchandise or otherwise, is prohibited on privately owned lands within the parks wherein the regulations of this part are applicable.

§ 5.7 Discrimination in furnishing public accommodations.

The proprietor, owner, or operator and the employees of any hotel, inn, lodge, or other public accommodation within any of the parks listed in § 5.1 are prohibited from (a) publicizing such facilities in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person or persons because of race, creed, color, or national origin; and (b) discriminating against any person or persons because of race, creed, color, or national origin by refusing to furnish such person or persons any accommodations, facilities, or privileges offered to or enjoyed by the general public.

§ 5.8 Intoxicating liquors.

(a) No alcoholic, spirituous, vinous, or fermented liquor, containing more than one per cent of alcohol by weight, shall be sold on any privately-owned lands within any of the national parks listed in § 5.1 unless a permit for the sale thereof has first been secured from the appropriate regional director.

(b) In granting or refusing applications for permits as herein provided, the regional directors shall take into consideration (1) the character of the neighborhood, (2) the availability of other

liquor-dispensing facilities, (3) the local laws governing the sale of liquor, and (4) any other local factors which, in their judgment, have a relationship to the privilege requested.

(c) A fee will be charged for the issuance of such a permit, corresponding to that charged for the exercise of similar privileges outside the national park boundaries by the local State Government, or appropriate political subdivision thereof within whose exterior boundaries the place covered by the permit is situated.

(d) The applicant or permittee may appeal to the Director, National Park Service, from any final action of the appropriate regional director refusing, conditioning or revoking the permit. Such an appeal, in writing, shall be filed within twenty days after receipt of notice by the applicant or permittee of the action appealed from. Any final decision of the Director may be appealed to the Secretary of the Interior within 15 days after receipt of notice by the applicant or permittee of the Director's decision.

(e) The revocable permit for sale of intoxicating liquors authorized in this section to be issued by the appropriate regional director shall contain general regulatory provisions as hereinafter set forth, and will include such special conditions as the regional director may deem necessary to cover existing local circumstances, and shall be in a form substantially as follows:

FRONT OF PERMIT

No. _____ Form No. _____
Year 19_____(_____, 1948)

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

REVOCABLE PERMIT FOR SALE OF INTOXICATING LIQUORS ON PRIVATELY OWNED LANDS

Permission is hereby granted _____ of _____, 19_____, to _____, 19_____, inclusive, to sell the following mentioned Intoxicating Liquors _____ within (an established place of business) (a place of business to be established) (strike out one) on the following described privately owned lands within _____ National Park, over which the United States exercises exclusive jurisdiction _____

subject to the general provisions and any special conditions stated on the reverse hereof and subject also to the payment to the Government of the United States of the sum of _____ dollars (\$_____)

(annually) (quarterly) (monthly) in advance, payment to be made through the Superintendent of the Park. Payment shall be tendered by money order, check or draft payable to the Treasurer, United States of America. Payment shall not be considered as made until the funds are collected by the United States.

Issued at _____, this _____ day of _____, 19_____. _____

Superintendent.

The undersigned hereby accepts the above permit subject to the terms, covenants, obligations, and reservations expressed or implied therein, with the understanding that this

permit shall not be valid until approved by the appropriate regional director.

Address: _____

Address: _____

Two witnesses to signature(s): _____

Address: _____

Address: _____

Approved: _____

Regional Director, Region _____

: Sign name or names as written in body of permit; for copartnership permittees should sign as "Members of firm"; for corporation, the officer authorized to execute contracts, etc., should sign, with title, the sufficiency of such signature being attested by the secretary, with corporate seal, in lieu of witnesses.

REVERSE OF PERMIT

GENERAL REGULATORY PROVISIONS OF THIS PERMIT

1. Permittee shall exercise this privilege subject to the supervision of the Superintendent of the Park and shall comply with the regulations of the Secretary of the Interior governing the Park.

2. Any building or structure used for the purpose of conducting the business herein permitted shall be kept in a safe, sanitary and sightly condition.

3. Permittee shall dispose of brush and other refuse from the business herein permitted as required by the Superintendent.

4. Permittee shall pay to the United States for any damage resulting to Government-owned property from the operation of the business herein permitted.

5. Permittee, his agents, and employees shall take all reasonable precautions to prevent forest fires and shall assist the Superintendent to extinguish forest fires within the vicinity of the place of business herein permitted, and in the preservation of good order within the vicinity of the business operations herein permitted.

6. Failure of the permittee to comply with all State and county laws and ordinances applicable to the sale of intoxicating liquors, except provisions requiring payment of license fees, or to comply with any law or any regulations of the Secretary of the Interior governing the Park, or with the conditions imposed by this permit, will be ground for revocation of this permit. The permit may be revoked by the regional director at any time in his discretion.

7. No minor may be employed by the permittee in the sale or dispensing of intoxicating liquors permitted under this permit.

8. No intoxicating liquors shall be sold to a minor.

9. No disorderly conduct shall be permitted on the premises.

10. This permit may not be transferred or assigned without the consent, in writing, of the appropriate regional director.

11. Neither members of, nor delegates to Congress, or Resident Commissioners, officers, agents, or employees of the Department of the Interior shall be admitted to any share or part of this permit or derive, directly or indirectly, any pecuniary benefit arising therefrom.

12. The following special provisions are made a part of this permit:

PART 6—VEHICLE, GUIDE, ADMINISTRATION, AND MISCELLANEOUS FEES

Sec.

6.1 General.

6.2 Automobile, motorcycle, and house trailer permits.

6.3 Commercial passenger-carrying vehicles.

No. 238—9

Sec. 6.4 Trucking permits.
 6.5 Vehicles; miscellaneous.
 6.6 Guide and elevator service in caves.
 6.7 Guide service; miscellaneous.
 6.8 Elevator service; miscellaneous.
 6.9 Admission; miscellaneous.
 6.10 Wharfage.
 6.11 Motor vessel transportation.
 6.12 Commercial fishing.
 6.13 Hospital service.

AUTHORITY: §§ 6.1 to 6.13 issued under sec. 3, 39 Stat. 535; as amended; 16 U.S.C. 3.

§ 6.1 General.

(a) The fees prescribed in this part for the operation of commercial vehicles shall not be applicable to vehicles institutionally owned or chartered, carrying exclusively members of educational, welfare, or scientific organizations, inmates of charitable institutions, and members of generally recognized nonprofit organizations, when the trip to the area is officially initiated, organized, and directed by such organization.

(b) Personal admission, guide, and elevator fees prescribed in this part shall not be applicable to children under 12 years of age, or groups of elementary and high school children and the accompanying adults who assume responsibility for their safety and orderly conduct.

(c) In proper cases and, upon application made in advance, where practicable, the Director, Regional Directors, or Park Superintendents may waive the fees prescribed in this part when, in their judgment, such action is deemed in the best interest of the United States.

(d) Park Superintendents may, when in the public interest, prescribe seasonal periods during which the collection of vehicle, guide, admission or other fees prescribed for such area shall be suspended.

§ 6.2 Automobile, motorcycle, and house trailer permits.

(a) Fees for automobile permits are as follows:

| | Yearly permit | 15-day permit unless otherwise stated |
|--|---------------|---------------------------------------|
| Bryce Canyon National Park | \$2.00 | \$1.00 |
| Crater Lake National Park | 2.00 | 1.00 |
| Glacier National Park | 4.00 | 2.00 |
| Grand Canyon National Park | 2.00 | 1.00 |
| Grand Teton National Park | 2.00 | 1.00 |
| Lassen Volcanic National Park | 2.00 | 1.00 |
| Mesa Verde National Park | 2.00 | 1.00 |
| Mount Rainier National Park | 2.00 | 1.00 |
| Rocky Mountain National Park | 2.00 | 1.00 |
| Sequoia-Kings Canyon National Parks | 4.00 | 2.00 |
| Shenandoah National Park and the section of Blue Ridge Parkway between Jarman Gap and Rockfish Gap | 1.00 | .50 |
| Yellowstone National Park | 6.00 | 3.00 |
| Yosemite National Park | 6.00 | 3.00 |
| Zion National Park | 2.00 | 1.00 |
| Bandelier National Monument | 1.00 | .50 |
| Colorado National Monument | 1.00 | .50 |
| Craters of the Moon National Monument | 1.00 | .50 |
| Devils Tower National Monument | 1.00 | .50 |
| Pinnacles National Monument | 1.00 | .50 |
| White Sands National Monument | 1.00 | .50 |

† Per trip.

(b) Fees for motorcycle permits are as follows:

| | Yearly permit | 15-day permit unless otherwise stated |
|--|---------------|---------------------------------------|
| Bryce Canyon National Park | \$2.00 | \$1.00 |
| Crater Lake National Park | 2.00 | 1.00 |
| Glacier National Park | 4.00 | 2.00 |
| Grand Canyon National Park | 2.00 | 1.00 |
| Grand Teton National Park | 2.00 | 1.00 |
| Lassen Volcanic National Park | 2.00 | 1.00 |
| Mesa Verde National Park | 2.00 | 1.00 |
| Mount Rainier National Park | 2.00 | 1.00 |
| Rocky Mountain National Park | 2.00 | 1.00 |
| Sequoia-Kings Canyon National Parks | 4.00 | 2.00 |
| Shenandoah National Park and the section of Blue Ridge Parkway between Jarman Gap and Rockfish Gap | 1.00 | .50 |
| Yellowstone National Park | 6.00 | 3.00 |
| Yosemite National Park | 6.00 | 3.00 |
| Zion National Park | 2.00 | 1.00 |
| Bandelier National Monument | 1.00 | .50 |
| Colorado National Monument | 1.00 | .50 |
| Craters of the Moon National Monument | 1.00 | .50 |
| Devils Tower National Monument | 1.00 | .50 |
| Pinnacles National Monument | 1.00 | .50 |
| White Sands National Monument | 1.00 | .50 |

† Per trip.

(c) Fees for house trailer permits are as follows:

| | Yearly permit | 15-day permit unless otherwise stated |
|--|---------------|---------------------------------------|
| Bryce Canyon National Park | \$2.00 | \$1.00 |
| Crater Lake National Park | 2.00 | 1.00 |
| Glacier National Park | 4.00 | 2.00 |
| Grand Canyon National Park | 2.00 | 1.00 |
| Grand Teton National Park | 2.00 | 1.00 |
| Lassen Volcanic National Park | 2.00 | 1.00 |
| Mesa Verde National Park | 2.00 | 1.00 |
| Mount Rainier National Park | 2.00 | 1.00 |
| Rocky Mountain National Park | 2.00 | 1.00 |
| Sequoia-Kings Canyon National Parks | 4.00 | 2.00 |
| Shenandoah National Park and the section of Blue Ridge Parkway between Jarman Gap and Rockfish Gap | 1.00 | .50 |
| Yellowstone National Park | 6.00 | 3.00 |
| Yosemite National Park | 6.00 | 3.00 |
| Zion National Park | 2.00 | 1.00 |
| Bandelier National Monument | 1.00 | .50 |
| Colorado National Monument | 1.00 | .50 |
| Craters of the Moon National Monument | 1.00 | .50 |
| Devils Tower National Monument | 1.00 | .50 |
| Pinnacles National Monument | 1.00 | .50 |
| White Sands National Monument | 1.00 | .50 |

† Per trip.

(d) Any 15-day permit may be exchanged for an annual permit for the same vehicle at any time prior to the expiration date of the 15-day permit, and the purchase price of the 15-day permit will be allowed in the exchange.

(e) To promote the purpose of the act of May 2, 1932 (47 Stat. 145; 16 U.S.C. 161a), Canadian dollars tendered by Canadian visitors entering the United States section of Glacier National Park will be accepted at the official rate of exchange in payment of the foregoing entrance fees prescribed for the park.

(f) No fee shall be charged residents of Coconino County, Arizona, or Kanab, Utah, entering Grand Canyon National

PROPOSED RULE MAKING

Park, or residents of Washington and Kane Counties, Utah, or residents of that part of Coconino County, Arizona, lying north and west of the Colorado River, entering Zion National Park, or residents of Garfield and Kane Counties, Utah, entering Bryce Canyon National Park, in the conduct of their usual occupation or business.

(g) The fees relating to Sequoia and Kings Canyon National Parks, prescribed in this section, shall not be collected in cases where such a collection would interfere with the movement of stock and vehicular traffic without charge to and from national forest lands on either side of the lands added to the General Grant Grove section of Kings Canyon National Park pursuant to Proclamation No. 2411 of June 21, 1940 (54 Stat. 2710), issued pursuant to the act of March 4, 1940 (54 Stat. 41; 16 U.S.C. 80a).

(h) No fee shall be charged for automobiles, trucks, motorcycles, or trailers using the section of U.S. Highway No. 191 in Yellowstone National Park, or for passenger vehicles owned by legally registered voters of Cooke, Montana, operating directly between the north and northeast entrances of the park.

§ 6.3 Commercial passenger-carrying vehicles.

(a) Fees. Fees for commercial passenger-carrying vehicles admissible to the respective parks under § 1.36a (2), (3), and (4) of this chapter will be charged as follows:

| | § 1.36 (a)(1) | § 1.36 (a)(2) | § 1.36 (a)(3) and (4) |
|--|------------------|------------------|-----------------------------|
| Bryce Canyon National Park. | \$1.00 | \$10.00 | \$1.00 ⁽²⁾ |
| Crater Lake National Park. | 1.00 | 10.00 | 1.00 |
| Glacier National Park. | 2.00 | 10.00 | ----- |
| Grand Canyon National Park (South Rim). | 1.00 | 10.00 | ----- |
| Grand Canyon National Park (North Rim only). | ----- | ----- | 1.00 |
| Grand Teton National Park. | 1.00 | 10.00 | ----- |
| Lassen Volcanic National Park. | 1.00 | 10.00 | ----- |
| Mesa Verde National Park. | 1.00 | 10.00 | 1.00 |
| Mount McKinley National Park. | 1.00 | 10.00 | 1.00 |
| Mount Rainier National Park. | 1.00 | 10.00 | ----- |
| Rocky Mountain National Park. | 1.00 | 10.00 | 1.00 |
| Sequoia-Kings Canyon National Parks. | 1.00 | 10.00 | 1.00 |
| Yellowstone National Park. | 2.00 | 10.00 | 2.00 |
| Yosemite National Park. | 3.00 | 10.00 | 2.00 |
| Zion National Park. | 1.00 | 10.00 | 1.00 |
| Cedar Breaks National Monument. | ----- | 10.00 | ----- |

¹ More than 8 passenger seats \$10.00. Less than 8 passenger seats \$5.00.

² Per passenger seat in vehicle.

(b) *Colonial National Historical Park; permits.* Permits issued by the Superintendent shall be required for the operation of commercial passenger-carrying vehicles, including taxicabs, carrying passengers for hire on any portion of the Colonial Parkway, Colonial National Historical Park. The fees for such permits shall be as follows:

(1) Annual permit for the calendar year: \$3.50 for each passenger-carrying seat in the vehicle to be operated.

(2) Quarterly permit for a period beginning January 1, April 1, July 1, or October 1: \$1.00 for each passenger-carrying seat in the vehicle to be operated.

(3) Permit good for one day, 5-passenger vehicle: \$1.00.

(4) Permit good for one day, more than 5-passenger vehicle: \$3.00.

(c) *Everglades National Park; permits.* Permits issued by the Superintendent shall be required for the operation of commercial passenger-carrying vehicles, including taxicabs, carrying passengers for hire on any portion of the park road in Everglades National Park. The fees for such permit shall be as follows:

(1) Annual permit for calendar year: \$3.00 for each passenger-carrying seat in the vehicle to be operated.

(2) Quarterly permit for a period beginning January 1, April 1, July 1, or October 1: \$1.00 for each passenger-carrying seat in the vehicle to be operated.

(3) Permit good for one day, 7-passenger vehicle or less: \$1.00 per vehicle.

(4) Permit good for one day, more than 7-passenger vehicle: \$10.00 per vehicle.

(d) *Great Smoky Mountains National Park; permits.* Permits issued by the Superintendent, and compliance with applicable state and federal regulations, shall be required for the operation of commercial passenger-carrying vehicles, including taxicabs, carrying passengers for hire within the park. The fee for such permits shall be as follows:

(1) Annual permit for calendar year: \$1.00 for each passenger-carrying seat in the vehicle to be operated.

(2) Quarterly permit for a period beginning January 1, April 1, July 1, or October 1: 25 cents for each passenger-carrying seat in the vehicle to be operated.

(3) In addition to the permit required in subparagraphs (1) and (2) of this section, a guide permit issued by the Superintendent shall be required for each driver of a commercial passenger-carrying vehicle, including taxicabs, carrying passengers for hire within the park. Such a permit will be issued by the Superintendent upon a showing to his satisfaction that the applicant possesses adequate knowledge of the park's road system and points of interest, and has complied with all applicable state and federal regulations. The fee for a guide permit shall be \$5.00 for the calendar year, or any part thereof.

(e) *Mammoth Cave National Park; permits.* Permits issued by the Superintendent shall be required for the operation of commercial passenger-carrying vehicles, including taxicabs, carrying passengers for hire within the park. The fees for such permits shall be as follows:

(1) Annual permit for the calendar year: \$2.50 for each passenger-carrying seat in the vehicle.

(2) Quarterly permit for a period beginning January 1, April 1, July 1, or October 1: 65 cents for each passenger-carrying seat in the vehicle.

(3) Permit for one day: \$1.00 per vehicle.

(f) *Shenandoah National Park; permits.* Permits issued by the Superintendent shall be required for the operation of commercial passenger-carrying vehicles, including taxicabs, carrying passengers for hire on the Skyline Drive in Shenandoah National Park, and that

section of the Blue Ridge Parkway between Jarman Gap and Rockfish Gap. The fees for such permits shall be as follows:

(1) Annual permit for the calendar year: \$3.50 for each passenger-carrying seat in the vehicle to be operated.

(2) Quarterly permit for a period beginning January 1, April 1, July 1, or October 1: \$1.00 for each passenger-carrying seat in the vehicle to be operated.

(3) Permit good for one day, 11-passenger vehicle or less: \$2.00.

(4) Permit good for one day, more than 11-passenger vehicle: \$10.00.

(g) *Kennesaw Mountain National Battlefield Park; permits.* Permits issued by the Superintendent shall be required for the operation of commercial passenger-carrying vehicles, including taxicabs, carrying passengers for hire on the Kennesaw Mountain Road, Kennesaw Mountain National Battlefield Park. The fees for such permits shall be as follows:

(1) Annual permit for the calendar year: \$2.50 for each passenger-carrying seat in the vehicle to be operated.

(2) Quarterly permit for a period beginning January 1, April 1, July 1, or October 1: \$.65 for each passenger-carrying seat in the vehicle to be operated.

(3) Permit good for one day, 5-passenger vehicle: \$1.00.

(4) Permit good for one day, more than 5-passenger vehicle: \$2.00.

(h) *National Capital Parks (George Washington Memorial Parkway); permits.* Permits issued by the Superintendent shall be required for the operation of commercial passenger-carrying vehicles on the George Washington Memorial Parkway, as stated in § 3.35 of this chapter. The fees for such permits shall be as follows:

(1) Annual permit effective from April 1 until the following March 31, at the rate of \$3 for each passenger-carrying seat in every vehicle so operated.

(2) A quarterly permit may be procured for a fee of 75 cents for each passenger-carrying seat in such vehicle. A quarterly permit may be effective for quarterly increments.

(3) Permits for operation of any such vehicle on the parkway for a single day may be procured at the rate of \$1 per vehicle per day.

§ 6.4 Trucking permit.

(a) *Crater Lake National Park.* (1) With reference to the trucking permits that may be issued at the discretion of the Superintendent, as stated in § 7.2 of this chapter, non-commercial trucking fees will be charged as follows, on rated capacity:

| | |
|--|--------|
| Vehicle, 1 ton or less | \$1.00 |
| Vehicle, over 1 ton but not more than 2 tons | 2.00 |
| Vehicle, over 2 tons but not more than 3 tons | 3.00 |
| Vehicle, over 3 tons but not more than 5 tons | 4.00 |
| Vehicle, over 5 tons but not more than 10 tons | 5.00 |
| Vehicle, over 10 tons | 10.00 |

(2) The fees listed above shall entitle the holder to one round trip if performed on the same day of issue; otherwise, the fee will be for a one-way trip.

(3) Nothing in this section shall be construed to prohibit trucks used in connection with park operation.

(4) The fees established in this section shall also apply to special emergency trucking permits issued pursuant to § 1.37(a) of this chapter.

(b) *Rocky Mountain National Park.*

(1) With reference to the permits that may be issued by the Superintendent, as stated in § 7.7 of this chapter, fees charged for trucking over the Trail Ridge Road shall be as follows:

| | Fee |
|--|--------|
| Vehicle, 1 ton or less | \$2.00 |
| Vehicle, over 1 ton but not more than 2 tons | 3.00 |
| Vehicle, over 2 tons but not more than 3 tons | 4.00 |
| Vehicle, over 3 tons but not more than 5 tons | 5.00 |
| Vehicle, over 5 tons but not more than 10 tons | 10.00 |

(2) The applicable fee shall be charged for the licensed capacity of a truck, trailer, or semi-trailer.

(3) The fee charged is for one round trip, provided such trip is made in one day, otherwise the fee is for a one-way trip.

(4) No vehicle which has a gross weight, including vehicle and load, in excess of 10 tons, shall be operated or moved on the Trail Ridge Road.

(5) The fee provided in this paragraph shall also apply to special emergency trucking permits issued pursuant to § 1.37(a) of this chapter.

(c) *Yellowstone National Park.* (1) With reference to the permits that may be issued by the Superintendent, as stated in § 7.13 of this chapter, trucking fees for the use of park roads shall be charged as follows:

Emergency trucking between any two park entrances—Round trip permit fee, \$10.

Trucking between the north and northeast entrances:

Trucks with a capacity of $\frac{3}{4}$ ton, but with a capacity of not more than $1\frac{1}{2}$ tons—Yearly permit fee, \$20.

Trucks with a capacity of more than $1\frac{1}{2}$ tons—Yearly permit fee, \$40.

(d) *Yosemite National Park.* (1) The fees for special trucking permits issued by the Superintendent in emergencies pursuant to paragraph (a) of § 1.37 of this chapter shall be based on the licensed capacity of trucks, trailers, or semi-trailers, as follows:

Trucks, less than 1 Appropriate automobile permit fee.
Trucks of 1 ton and over, but not to exceed 10 tons: \$5 for each ton or fraction thereof.

(i) The fee charged is for one round trip between any two park entrances, provided such trip is made within one 24-hour period; otherwise the fee is for a one-way trip.

(ii) Trucks carrying bona fide park visitors and/or their luggage or camping equipment may enter the park upon payment of the regular automobile fee.

(2) The fee provided in subparagraph (1) of this paragraph also shall apply to permits which the Superintendent may issue for trucking through one park entrance to and from privately-owned lands contiguous to the park boundaries, except that such fee shall be considered an annual vehicle fee covering the use

of park roads between the point of access to such property and the nearest park exit connecting with a state or county road.

(3) No commercial trucks will be permitted on the Tioga Road except those used in connection with the activities of the United States Government, the State of California, or agencies operating under contract or agreement with the United States Government to render service to the public in the park, or trucks delivering supplies, materials, etc., to the United States Government, the State of California, or contractors or permittees in the park.

(e) *Zion National Park.* Vehicles exceeding certain size limitations must be convoyed over the park roads, as stated in § 7.10 of this chapter, for which a fee of \$5 per single trip will be charged for each vehicle or combination of vehicles, including vehicles entitled to waiver of the automobile permit fee in accordance with § 6.2(f). For vehicles not entitled to such waiver the convoy fee shall be in addition to the automobile permit fee.

(f) "Vehicle." The word "vehicle", as used in this section, shall mean truck, tractor, trailer, semi-trailer, and/or any combination thereof.

§ 6.5 Vehicles; miscellaneous.

(a) *Colonial National Historical Park.* There shall be charged a fee of 25 cents for each passenger car and a fee of \$1.00 for each bus or truck entering the Yorktown bathing beach and picnic area on Saturdays, Sundays, and holidays from May 30 through Labor Day. The truck or bus fee is not applicable to trucks used as family vehicles. The fee is applicable to all buses and to trucks carrying groups. The automobile fee of \$0.25 is applicable to trucks used as family vehicles.

(b) *Yosemite National Park.* As stated in § 7.16 of this chapter, motor vehicles driven or moved upon a park road in Yosemite National Park must be registered and properly display current license plates. Such registration may be with a State or other appropriate authority or, in the case of motor vehicles operated exclusively on park roads, with the Superintendent of the park. An annual registration fee of \$6 will be charged for vehicles registered with the Superintendent which are not connected with the operation of the park.

§ 6.6 Guide and elevator service in caves.

No person or persons shall be permitted to enter caves in the areas listed below unless accompanied by National Park Service employees. Competent guide service is provided by the Government, for which the following fees shall be charged each person entering the cave:

| | Fee |
|-------------------------------------|--------|
| Carlsbad Caverns National Park | \$1.50 |
| Crystal Cave, Sequoia National Park | .50 |
| Jewel Cave National Monument | .50 |
| Lehman Caves National Monument | .50 |
| Mammoth Cave National Park: | |
| Route: | |
| No. 1—Echo River | 1.50 |
| No. 2—Frozen Niagara | 1.50 |
| No. 3—Historic | 1.50 |
| No. 4—All Day | 2.50 |
| No. 5—Scenic | 2.00 |
| No. 6—Crystal Lake | 1.50 |
| No. 7—Mammoth Dome | 1.50 |

| | Fee |
|-----------------------------------|--------|
| Timpanogos Cave National Monument | \$0.50 |
| Wind Cave National Park | .75 |

The fees shall include Federal tax and elevator service when applicable.

§ 6.7 Guide service; miscellaneous.

A guide fee shall be charged each person taking a guided trip through the following areas:

| | Trip fee |
|--------------------------------|----------|
| Casa Grande National Monument | \$0.25 |
| Chaco Canyon National Monument | .25 |

§ 6.8 Elevator service; miscellaneous.

(a) *Perry's Victory and International Peace Memorial.* A fee of 25 cents shall be charged each person using the elevator in Perry's Victory and International Peace Memorial: *Provided*, That organized groups of persons from clubs, associations, etc., may be granted a special rate of 10 cents per person.

(b) *Statue of Liberty National Monument.* A fee of 5 cents in each direction shall be charged each person using the elevator in the Statue of Liberty.

(c) *Washington Monument National Memorial.* A fee of 10 cents shall be charged each person using the elevator to ascend the Washington Monument.

§ 6.9 Admission; miscellaneous.

(a) An admission fee shall be charged each person entering the following areas:

| | Fee |
|--|--------|
| Aztec Ruins National Monument | \$0.25 |
| Castillo de San Marcos National Monument | .25 |
| Edison Laboratory National Monument | .50 |
| El Morro National Monument | .25 |
| Fort Pulaski National Monument | .25 |
| Fort Raleigh National Historic Site (except after 6 p.m. on days when the pageant, "The Lost Colony," is presented by the Roanoke Island Historical Association) | .25 |
| George Washington Birthplace National Monument | .25 |
| Montezuma Castle National Monument | .25 |
| Tonto National Monument | .25 |
| Tumacacori National Monument | .25 |
| Tuzigoot National Monument | .25 |
| Walnut Canyon National Monument | .25 |

(b) An admission fee shall be charged each person entering the following places:

| | Fee |
|--|--------|
| Adams National Historic Site | \$0.25 |
| Appomattox Court House National Historical Park—McLean House | .25 |
| Chickamauga and Chattanooga National Military Park—Point Park | .25 |
| Colonial National Historical Park—Moore House | .25 |
| Fort McHenry National Monument and Historic Shrine—Inner Fort | .25 |
| Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park—Museum | .25 |
| Gettysburg National Military Park—Cyclorama Building | .25 |
| Home of Franklin D. Roosevelt National Historic Site (no charge shall be made for persons desiring to visit only the grave of Franklin D. Roosevelt) | .25 |
| House Where Lincoln Died | .10 |
| Custis-Lee Mansion in Arlington National Cemetery | .25 |
| Lincoln Museum | .10 |
| Manassas National Battlefield Park—Museum | .25 |

PROPOSED RULE MAKING

| | Fee |
|---|--------|
| Morristown National Historical Park— Ford Museum and Mansion | \$0.25 |
| Ocmulgee National Monument—Mu- seum and Earth Lodge | .25 |
| Salem Maritime National Historic Site—Derby House | .25 |
| Vanderbilt Mansion National Historic Site | .25 |
| Vicksburg National Military Park— Museum | .25 |

(c) Colonial National Historical Park: A fee of 25 cents shall be charged each person entering the Government area on Jamestown Island and Glasshouse Point in Colonial National Historical Park, except members of the Association for the Preservation of Virginia Antiquities. The fee shall be combined with a fee of 25 cents per person charged for admission to the area owned by the Association for the Preservation of Virginia Antiquities and included within the Jamestown National Historic Site. Officials of the National Park Service and the Association for the Preservation of Virginia Antiquities may admit the general public to the areas under their jurisdiction without charge, upon special occasions, and official complimentary passes issued by either party shall be honored by the other party.

§ 6.10 Wharfage.

(a) *Salem Maritime National Historic Site.* (1) Fees for use of the Government-owned wharf by any privately owned craft shall be charged as follows:

| | 1 week | 1 month |
|--|--------|---------|
| Craft with an over-all length of 15 feet and not more than 25 feet | \$1.00 | \$2.50 |
| Craft with an over-all length of more than 25 feet and not more than 50 feet | 1.50 | 3.75 |
| Craft with an over-all length of more than 50 feet | 2.00 | 5.00 |

(2) No fee will be charged for the first 2 consecutive days of wharfage in any 7-day period, but any wharfage in excess of the first 2 consecutive days in any 7-day period will be charged for at the weekly rate.

§ 6.11 Motor vessel transportation.

(a) *Isle Royale National Park.* (1) Transportation services between Houghton, Michigan, and Isle Royale National Park, Michigan, rendered aboard Government-owned vessels, shall be charged for at the following rates:

| | |
|--|--------|
| Personal transportation—one way only | \$7.50 |
| Personal transportation—round trip | 15.00 |
| Transportation of boats up to 14 feet in length—one way only | 5.00 |
| Transportation of boats up to 14 feet in length—round trip | 10.00 |
| Transportation of boats over 14 feet but limited to 20 feet—one way only | 10.00 |
| Transportation of boats over 14 feet but limited to 20 feet—round trip | 20.00 |
| Canoes—round trip | 3.00 |
| Outboard motors $\frac{3}{4}$ h.p. to 10 h.p.— round trip | 3.00 |
| Outboard motors 12 h.p. to 25 h.p.— round trip | 5.00 |
| Outboard motors over 25 h.p.—round trip | 7.50 |

(2) The rates mentioned in subparagraph (1) of this paragraph are subject to applicable Federal Transportation Taxes.

(3) Personal transportation for children between the ages of five and twelve, inclusive, will be one-half of the rates mentioned in subparagraph (1) of this paragraph for comparable service. No charge will be made for children under the age of five.

(4) The rates for personal transportation mentioned in subparagraph (1) of this paragraph include the transportation of usual hand baggage and camping gear.

§ 6.12 Commercial fishing.

(a) *Isle Royale National Park.* In those cases where special use permits are issued in conformity with the provisions stated in § 20.2 of this chapter, permittees will be required to pay an annual fee of \$25.00.

§ 6.13 Hospital service.

(a) *Mesa Verde National Park.* (1) Services rendered at the Aileen Nusbaum Hospital shall be charged for at the following rates:

| | |
|---|--------|
| (i) First aid and dispensary: Ward bed, including ordinary drugs, or small dressings, and 8 hours of general nursing service per day | \$5.00 |
| (ii) Laboratory: | |
| Urinalysis, chemical only | 1.00 |
| Urinalysis, microscopic only | 1.00 |
| White blood count | 1.00 |
| Red blood count | 1.00 |
| Hemoglobin | 1.00 |
| Differential | 2.00 |
| Complete count with differential | 4.00 |

(2) The rates mentioned in subparagraph (1) of this paragraph shall be subject to the following discounts:

(i) Employees of the National Park Service and the dependent members of their families, $66\frac{2}{3}$ per cent. No charge will be made for the first 24 hours of hospitalization, except for services furnished in excess of those normally provided.

(ii) Residents of the park not employed by the National Park Service and dependent members of their families, $33\frac{1}{3}$ per cent.

(3) Minor dispensary services will be rendered to all residents of the park without charge.

(4) The provision of the laboratory services enumerated above shall be optional with the Superintendent, depending upon equipment and supplies available for the rendering of such services.

(5) The charges mentioned in subparagraph (1) of this paragraph do not include meals or the services of a physician, which must be arranged for by patients at their own expense.

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

| Sec. | |
|------|--|
| 7.1 | Colonial National Historical Park. |
| 7.2 | Crater Lake National Park. |
| 7.3 | Glacier National Park. |
| 7.4 | Grand Canyon National Park. |
| 7.5 | Mount Rainier National Park. |
| 7.6 | Muir Woods National Monument. |
| 7.7 | Rocky Mountain National Park. |
| 7.8 | Sequoia-Kings Canyon National Parks. |
| 7.9 | Shiloh National Military Park. |
| 7.10 | Zion National Park. |
| 7.11 | Lassen Volcanic National Park. |
| 7.12 | Kennesaw Mountain National Battlefield Park. |

| Sec. | |
|------|---|
| 7.13 | Yellowstone National Park. |
| 7.14 | Great Smoky Mountain National Park. |
| 7.15 | Shenandoah National Park. |
| 7.16 | Yosemite National Park. |
| 7.17 | Platt National Park. |
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| 7.19 | Morristown National Historical Park. |
| 7.20 | Moores Creek National Military Park. |
| 7.21 | Guilford Courthouse National Military Park. |
| 7.22 | Grand Teton National Park. |
| 7.23 | George Washington Birthplace National Monument. |
| 7.24 | Catoctin Mountain Park. |
| 7.25 | Hawaii National Park. |
| 7.26 | Death Valley National Monument. |
| 7.27 | Fort Jefferson National Monument. |
| 7.28 | Olympic National Park. |
| 7.29 | Bandelier National Monument. |
| 7.30 | Bryce Canyon National Park. |
| 7.31 | Vanderbilt Mansion National Historic Site. |
| 7.32 | Ocmulgee National Monument. |
| 7.33 | Statue of Liberty National Monument. |
| 7.34 | Blue Ridge Parkway. |
| 7.35 | Gettysburg National Military Park. |
| 7.36 | Mammoth Cave National Park. |
| 7.37 | Timpanogos Cave National Monument. |
| 7.38 | Isle Royale National Park. |
| 7.39 | Mesa Verde National Park. |
| 7.40 | Hopewell Village National Historic Site. |
| 7.41 | Big Bend National Park. |
| 7.42 | Pipestone National Monument. |
| 7.43 | Natchez Trace Parkway. |
| 7.44 | Mount McKinley National Park, Alaska. |
| 7.45 | Everglades National Park. |
| 7.46 | Katmai National Monument. |
| 7.47 | Carlsbad Caverns National Park. |
| 7.48 | Lake Mead National Recreation Area. |
| 7.49 | Oregon Caves National Monument. |
| 7.50 | Theodore Roosevelt National Memorial Park. |
| 7.51 | Vicksburg National Military Park. |
| 7.52 | Devils Tower National Monument. |
| 7.53 | Scotts Bluff National Monument. |
| 7.54 | Colorado National Monument. |
| 7.55 | Acadia National Park. |
| 7.56 | Petersburg National Military Park. |
| 7.58 | Cape Hatteras National Seashore Recreational Area; hunting. |
| 7.59 | Wind Cave National Park. |

AUTHORITY: §§ 7.1 to 7.59 issued under sec. 3, 39 Stat. 535, as amended, sec. 209, 48 Stat. 205; 16 U.S.C. 3, 40 U.S.C. 409. Interpret or apply sec. 1, 46 Stat. 315, sec. 1, 47 Stat. 1420, sec. 2, 49 Stat. 666, 49 Stat. 2041, as amended, 50 Stat. 804, sec. 5, 52 Stat. 29, sec. 1, 2, 52 Stat. 407, 408, sec. 2, 54 Stat. 250, sec. 3, 56 Stat. 138; 16 U.S.C. 118, 9a, 462, 460a-2, 445c, 4031, 460, 460a, 460a-3, 408g. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 7.1 Colonial National Historical Park.

(a) *Fishing.* Fishing from bridges within the park is prohibited.

(b) *Travel on roads and trails.* Any road, trail or area within the Park may be closed to public use by order of the Superintendent when, in his judgment, conditions such as fire hazards, work operations, or other dangers make such action necessary for the protection of the Park and of the public.

(c) *Speed.* Except where different speed limits are indicated by posted signs or markers, speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, shall not exceed 45 miles per hour on park roadways.

(d) *Closing of areas.* The beach and picnic grounds shall be closed daily at 11:00 p. m.

(e) *Landing or launching of boats.* Except when authorized by the Superintendent, no privately-owned boat, canoe, raft or other floating craft shall be

launched from land within Colonial National Historical Park and no boat, canoe, raft or other floating craft shall be beached or landed on land within said Park.

§ 7.2 Crater Lake National Park.

(a) *Fishing.* (1) Fishing is permitted in Crater Lake at any time.

(2) The fishing season in park streams shall be from June 15 to September 10, inclusive.

(3) The limit of catch per person per day shall be 10 fish.

(4) Possession of more than one day's catch by any person at any time is prohibited.

(b) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42 (b) of this chapter are as follows:

(1) *Basic speed rule:*

(i) No person shall drive a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the highway, the hazard at intersections and any other conditions then existing.

(ii) No person shall drive at a speed which is greater than will permit the driver to exercise proper control of the vehicle and to decrease speed or to stop as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and with the duty of drivers and other persons using the highways to exercise due care.

(2) 15 miles per hour:

(i) In all campgrounds, parking areas, and places of public assemblage.

(ii) Upon that portion of any highway which passes through or borders upon a scene of emergency, such as forest fires, auto accidents or similar emergency.

(iii) In any business or residence area.

(3) 20 miles per hour:

(i) Upon approaching within 50 feet and in traversing an intersection of highways where the driver's view in either direction along any intersecting highway within a distance of 200 feet is obstructed, except that when traveling upon a through highway or at traffic-controlled intersection, the district speed applies.

(ii) When approaching, or upon a curve or any other part of a highway, in the event the driver's view is obstructed within a distance of 100 feet along the highway in the direction in which such driver is proceeding.

(iii) When approaching or traversing a section of highway posted as "Construction" or "Men Working" or similarly, unless a lesser speed limit is posted.

(4) 35 miles per hour:

(i) That portion of Annie Springs to Rim Highway lying between Park Headquarters and North Junction.

(5) 45 miles per hour on all other paved, public roads in the Park.

(6) *Special speed limits:*

(i) Whenever the Superintendent, Crater Lake National Park, determines that a temporary condition or situation exists upon or adjacent to a road, which requires a reduced speed limit, the Su-

perintendent may designate a lesser speed limit, which shall be effective when appropriate signs giving notice thereof are erected upon such road.

(7) Any speed in excess of the speeds designated in subparagraphs (2), (3), (4), (5) and (6) of this paragraph shall be *prima facie* evidence of violation of subparagraph (1) of this subparagraph.

(c) *Trucking.* (1) Trucks with a rated load capacity in excess of $\frac{3}{4}$ ton are prohibited from using park roads except that trucks carrying bona fide park visitors and/or their luggage or camping equipment may enter the park upon payment of the regular automobile fee.

(2) The Superintendent may, in his discretion, issue permits for the use of park roads for non-commercial trucking, for which fees will be charged as set forth in Part 6 of this chapter.

§ 7.3 Glacier National Park.

(a) *Fishing; open season.* All waters within the Park are open to fishing in conformance with the State of Montana open season for high mountain streams and shall close at 10:00 p.m. on October 15, subject to the following exceptions and restrictions:

(1) Hours of fishing: 5:00 a.m. to 10:00 p.m.

(2) The open season on the Glacier National Park section of Waterton Lake shall conform to the Canadian season for this lake.

(3) All waters of the Waterton and Belly River drainages, except Waterton Lake, shall be closed to fishing after 10:00 p.m. on October 1.

(4) The open season on the Middle and North Forks of the Flathead River will conform to the Montana season for those waters, except that on the Park side the season will close October 15.

(5) Midvale and Hidden Creeks are closed to fishing at all times.

(6) Hidden Lake; Logging Creek, from the head of Logging Lake and including Grace Lake; Quartz Creek, between Lower Quartz Lake and Quartz Lake; and Kintla Creek, between Kintla Lake and Upper Kintla Lake, shall be open to fishing from July 1 to October 15, inclusive.

(b) *Fishing; limit of catch and in possession.* (1) The limit of catch per fisherman per day shall be 15 pounds of fish (dressed weight with heads and tails intact) and one fish, not exceeding in the aggregate 10 fish.

(2) Possession of more than one day's catch limit by any person at any time is prohibited.

(c) *Fishing; bait; licenses.* (1) Fishing for merchandise or profit is prohibited.

(2) The possession or use for bait, of salmon eggs or other fish spawn, or any imitation thereof, or substance prepared therefrom, is prohibited.

(3) A fishing license is not required to fish in the waters of the Park.

(d) *Speed.* The maximum speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 45 miles per hour, subject to the following conditions and limitations:

(1) In all areas so posted, and on dangerous curves, 20 miles per hour.

(2) On the North Fork Truck Trail from Apgar to Kishenehn, and on all feeder roads leading thereto, 25 miles per hour.

(3) Between U. S. Highway No. 89 (Blackfeet Highway) and Cut Bank Chalets, 30 miles per hour.

(4) Between U. S. Highway No. 89 (Blackfeet Highway) and Two Medicine Chalets, 30 miles per hour.

(5) On the Going-to-the-Sun Highway between Logan Creek and Siyeh Creek, 30 miles per hour.

(6) All trucks and busses of $1\frac{1}{2}$ tons capacity or over, 35 miles per hour.

(7) All vehicles towing other vehicles, 35 miles per hour.

(e) *Camping.* No person, party, or organization shall be permitted to camp in the Park more than 30 days in any one calendar year. Camping in Sprague Creek Campground shall not exceed 15 days in any one calendar year.

(f) *Mufflers.* All cars, trucks, busses, and motorcycles shall be equipped with muffling systems in good working order. Cut-outs are prohibited.

§ 7.4 Grand Canyon National Park.

(a) *Limitations on load, weight, and size of vehicles.* Any vehicle operated or moved upon any road within the boundaries of Grand Canyon National Park shall comply with the following height, weight, and load limitations:

(1) No vehicle including any load thereon shall exceed a height of thirteen feet six inches.

(2) No vehicle including any load thereon shall exceed a length of forty feet extreme overall dimensions, inclusive of front and rear bumpers.

(3) No combination of vehicles coupled together shall consist of more than two units except that a truck tractor and semi-trailer will be permitted to haul one full trailer and no such combination of vehicles shall exceed a total length of sixty-five feet.

(4) (i) The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed eighteen thousand pounds.

(ii) For the purposes of this section an axle load means the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.

(5) Subject to the limit upon the weight imposed upon the road through any one axle as set forth in subparagraph (4) of this paragraph, the total gross weight with load imposed upon the road by any one group of two or more consecutive axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

| Distance in feet between first and last axles of group: | Allowed load in pounds on group of axles |
|---|--|
| 4 | 32,000 |
| 5 | 32,000 |
| 6 | 32,200 |

PROPOSED RULE MAKING

| Distance in feet between first and last axles of group: | Allowed load in pounds on group of axles |
|---|--|
| 7 | 32,900 |
| 8 | 33,600 |
| 9 | 34,300 |
| 10 | 35,000 |
| 11 | 35,700 |
| 12 | 36,400 |
| 13 | 37,100 |
| 14 | 43,200 |
| 15 | 44,000 |
| 16 | 44,800 |
| 17 | 45,600 |
| 18 | 46,400 |

(6) The total gross weight with load imposed on the road by any vehicle or combination of vehicles where the distance between the first and last axles is more than eighteen feet shall not exceed that given for the respective distances in the following table:

| Distance in feet: | Allowed load in pounds |
|-------------------|------------------------|
| 18 | 46,400 |
| 19 | 47,200 |
| 20 | 48,000 |
| 21 | 48,800 |
| 22 | 49,600 |
| 23 | 50,400 |
| 24 | 51,200 |
| 25 | 55,250 |
| 26 | 56,100 |
| 27 | 56,950 |
| 28 | 57,800 |
| 29 | 58,650 |
| 30 | 59,500 |
| 31 | 60,350 |
| 32 | 61,200 |
| 33 | 62,050 |
| 34 | 62,900 |
| 35 | 63,750 |
| 36 | 64,600 |
| 37 | 65,450 |
| 38 | 66,300 |
| 39 | 67,150 |
| 40 | 68,000 |
| 41 | 68,000 |
| 42 | 68,000 |
| 43 | 68,000 |
| 44 | 68,000 |
| 45 | 68,000 |
| 46 | 68,800 |
| 47 | 69,600 |
| 48 | 70,400 |
| 49 | 71,200 |
| 50 | 72,000 |
| 51 | 72,800 |
| 52 | 73,600 |
| 53 | 74,400 |
| 54 | 75,200 |
| 55 | 76,000 |
| 56 or over | 76,800 |

(7) The distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half foot the next larger whole number shall be used.

(8) *Provided, however,* That a horse-drawn vehicle equipped with metal tires may be operated when the weight of such vehicle including any load thereon does not exceed 700 pounds upon any inch in width of tire.

(9) *Provided, further,* That the provisions of this paragraph shall not apply to traction engines or tractors the propulsive power of which is exerted, not through wheels resting upon the ground, but by means of a flexible band or chain known as a movable track when the portions of the movable tracks in contact with the surface of the roadway present plane surfaces.

(b) *Flanges, ribs, clamps.* There shall not be operated or moved upon any road

within the boundaries of Grand Canyon National Park any vehicle of any kind the face of the wheel or wheels of which are fitted flanges, ribs, clamps, cleats, lugs, spikes, or any device which may tend to damage the roadway. This paragraph applies to all rings or flanges upon guiding or steering wheels on any such vehicle, but it shall not be construed to prevent the use of ordinary detachable tire or skid chains.

(c) *Weighing by Park officers.* Any officer of Grand Canyon National Park having reason to believe that the weight of a vehicle and load is unlawful and not in conformity with the regulations, is authorized to weigh the same either by portable or by stationary scales and may require that such vehicle be driven to the nearest scales in the event such scales are within 5 miles. The officer may then require the driver to unload immediately such portions of the load as may be necessary to decrease the gross weight of such vehicle to the maximum therefor specified in paragraphs (a), (b), and (c) of this section.

(d) *Special permits.* The Superintendent of Grand Canyon National Park may, in his discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified in the foregoing paragraphs upon any Park highway. Every such permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by said Superintendent. Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any Park officer.

(e) *Reduction of load and tire limitations.* Whenever by reason of rains, thawing snow or frost, or as a result of any other cause, any Park road or roads are in a soft condition or are unsuitable for heavy traffic, the Superintendent of Grand Canyon National Park may, in his discretion and for so long a period as he deems advisable, reduce the load capacity limitations or he may prohibit all hauling if the condition of any road so warrants.

(f) *Speed.* The maximum speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, shall not exceed the following prescribed limits:

(1) 35 miles per hour on any road, except East Rim Drive, south entrance to junction with East Rim Drive, and north entrance to junction with Cape Royal-Point Imperial spur.

(2) Approaching and at road intersections, entrance stations, and in residential areas, 25 miles per hour, as posted.

(3) In school zone, 15 miles per hour, as posted.

(4) On all curves and grades where so posted, 25 miles per hour.

(5) Trucks of two and one-half tons capacity or over, 35 miles per hour.

(6) Cars towing trailers or other cars or vehicles of any kind, 35 miles per hour.

(g) *Commercial passenger carrying motor vehicles.* The prohibition against

the admission of commercial passenger carrying motor vehicles, so far as it applies to that section of Grand Canyon National Park north of the Colorado River known as the North Rim, contained in § 1.36 of this chapter, shall be subject to the following exception: (1) Motor vehicles operated on a general, infrequent, and non-scheduled tour on which the visit to the Park is an incident to such tour, carrying only round trip passengers traveling from the point of origin of the tour, will be accorded admission to the Park upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the Park pursuant to contract authorization with the Secretary. Admission to the Park will be accorded such motor vehicles upon payment of a special tour permit fee. This fee is set forth in Part 6 of this chapter.

§ 7.5 Mount Rainier National Park.

(a) *Camping.* Quiet shall be maintained in all camps between the hours of 10:00 p.m. and 6:00 a.m.

(b) *Fishing.* (1) The fishing season in streams shall conform to that of the State of Washington, and in lakes shall be from July 4 to September 30, inclusive, with the following exceptions and restrictions:

(i) Fishing is permitted only between the hours of 4 a.m. and 9 p.m.

(2) The following waters are closed to fishing:

(i) Tipsoo Lake.

(ii) Shadow Lake.

(iii) Klickitat Creek above the White River Entrance water supply intake.

(iv) Laughing Water Creek above the Ohanapecosh water supply intake.

(v) Panther Creek above the East Side Road.

(vi) Frozen Lake.

(vii) Ipsut Creek above the Ipsut Creek campground water supply intake.

(3) (i) The limit of catch per person per day in streams and lakes shall be 10 pounds and 1 fish, with a maximum of 10 fish.

(ii) Possession of more than 1 day's catch by any person at any time is prohibited.

(4) (i) The Ohanapecosh River and its tributaries are closed to all fishing except fly fishing. The use of bait and other lures is prohibited.

(ii) The cleaning of fish in lakes or streams is prohibited.

(iii) The placing or depositing of fish eggs, fish roe, food, or other substances in any waters for the purpose of attracting, collecting, or feeding fish is prohibited.

(iv) Fishing with any line, gear, or tackle having more than two spinners, spoons, blades, flashers, or like attractions, and with more than one transparent or black rudder and more than three hooks attached to such line, gear, or tackle is prohibited.

(c) *Speed.* The maximum speed of automobiles and other vehicles, except in emergencies as provided in § 1.42 (b) of this chapter, shall not exceed the

following prescribed limits when appropriate signs giving notice thereof are erected:

(1) 15 miles per hour:

(i) When approaching or upon a curve or any other part of a road or highway in the event the driver's view is obstructed within a distance of 100 feet along the road or highway in the direction in which such driver is proceeding.

(2) 20 miles per hour:

(i) In any business or residence district.

(ii) Upon that portion of any road or highway which passes through or borders upon a public campground, parking area, or other place of public assemblage.

(3) 35 miles per hour:

(i) On U. S. Highway No. 410 from Chinook Pass to its junction with the East Side Road at Cayuse Pass.

(ii) On the Sunrise (Yakima Park) Road between its junction with the White River Campground Road and Sunrise.

(iii) On the White River Campground Road.

(iv) On the Carbon River Road.

(v) On the road from the Nisqually Park Entrance to Paradise.

(vi) On the West Side Road.

(vii) On the Mowich Lake Road.

(viii) On the Stevens Canyon Road.

(4) 45 miles per hour:

(i) On the East Side Road between its junction with U. S. Highway No. 410 at Cayuse Pass and the south park boundary.

(ii) On the Sunrise (Yakima Park) Road between its junction with U. S. Highway No. 410 and its junction with the White River Campground Road.

(5) 50 miles per hour:

(i) On U. S. Highway No. 410 between the north park boundary and its junction with the East Side Road at Cayuse Pass.

(6) Trucks of a ton and one-half capacity or over, 30 miles per hour except on U. S. Highway No. 410 between the north park boundary and its junction with the East Side Road at Cayuse Pass.

(7) Trucks of a ton and one-half capacity or over, 40 miles per hour on U. S. Highway No. 410 between the north park boundary and its junction with the East Side Road at Cayuse Pass.

(8) Vehicles towing trailers or other vehicles of any kind, 30 miles per hour, except on U. S. Highway No. 410 between the north park boundary and its junction with the East Side Road at Cayuse Pass.

(9) Vehicles towing trailers or other vehicles of any kind, 40 miles per hour on U. S. Highway No. 410 between the north park boundary and its junction with the East Side Road at Cayuse Pass.

(10) In every event, vehicles shall be driven or operated at appropriate reduced speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow and winding road, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or roadway conditions.

(d) *Entrances and exits.* Automobiles will be permitted to enter and leave the park through park checking stations be-

tween the hours of 6:00 a.m. and 11:00 p.m. daily.

(e) *Commercial automobiles and buses.* The prohibition against the admission of commercial automobiles and buses to Mount Rainier National Park, contained in § 1.36 of this chapter, shall be subject to the following exception: Motor vehicles operated on a general, infrequent, and nonscheduled tour on which the visit to the Park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, will be accorded admission to the Park upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such a manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the Park pursuant to contract authorization with the Secretary. Admission to the Park will be accorded such motor vehicles upon payment of a special tour permit fee. This fee is set forth in Part 6 of this chapter.

§ 7.6 Muir Woods National Monument.

(a) *Fires.* Fires are prohibited within the monument.

(b) *Dogs.* Dogs are allowed in the monument only under leash. Those found running at large will be impounded and disposed of according to law.

(c) *Fishing.* Fishing is prohibited within the Monument.

§ 7.7 Rocky Mountain National Park.

(a) *Fires.* The building of fires for any purpose on or along park roads, except in designated areas, is prohibited.

(b) *Fishing.* (1) Along the eastern shores of Shadow Mountain Lake and the Granby Reservoir fishing shall be done in conformity with the laws and regulations of the State of Colorado.

(2) Elsewhere in the Park, fishing shall be permitted in conformity with the laws and regulations of the State of Colorado regarding minimum size limits and the method of handling and returning undersized fish to the water; and, the following additional provisions:

(i) The open season for fishing shall be June 15 through September 30.

(ii) Permissible hours for fishing shall be 4:00 a. m. to 8:30 p. m., m. s. t.

(iii) The use of seines, throw lines, set lines, or any other method of catching fish, except by rod and line held in the hand, is prohibited.

(iv) Fishing with minnows, small fish, fish eggs, or other live bait or the release or freeing thereof, in any of the waters is prohibited.

(v) The number of fish that may be taken by any person in any one day is limited to 10 fish (not exceeding a total of 10 pounds). The possession of more than one day's catch by any person at any time is prohibited.

(vi) Fishing in rearing ponds or other posted waters is prohibited.

(vii) Tonahutu Creek is closed for a distance of 3 miles upstream from the park boundary.

(viii) The Big Thompson River in Forest Canyon from the junction of Fern Creek to its source is closed to fishing.

(c) *Travel on roads and trails.* Travel on the Fall River Road is limited to one-way travel from Chasm Falls to Fall River Pass.

(d) *Camping.* No person, party, or organization shall be permitted to camp in the park more than 30 days in any calendar year.

(e) *Trucking.* (1) The park superintendent may issue permits for the use of the Trail Ridge Road for trucking by ranchers, farmers, and business concerns located in the counties of Larimer, Boulder, and Grand, Colorado, when the loads carried originate and terminate within these counties, for which fees shall be charged. For applicable fees, see Part 6 of this chapter.

(f) *Report of accidents by wrecker operators.* Before the operator of a commercial wrecking car shall attempt to remove any vehicle involved in an accident within the Park, he shall take reasonable steps to ascertain whether any of the persons involved in the accident have reported it to the appropriate Park authority and if he fails to ascertain that a report of the accident has been made, he shall report the accident to the nearest Park authority before disturbing or removing any of the vehicles, equipment, or materials involved in the accident, except when the removal thereof is necessary to save human life or to prevent the further destruction of property.

(g) *Commercial automobiles and buses.* The prohibition against the admission of commercial automobiles and buses to Rocky Mountain National Park, contained in § 1.36 of this chapter, shall be subject to the following exception: Motor vehicles operated on a general, infrequent, and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, will be accorded admission to the park upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such a manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside the park pursuant to contract authorization with the Secretary. Admission to the park will be accorded such motor vehicles upon payment of a special tour permit fee. The fee for such motor vehicles is set forth in Part 6 of this chapter.

(h) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42 (b) of this chapter, are as follows:

(1) 40 miles per hour:

(i) Between the National Park boundary at the Grand Lake Entrance and the Phantom Valley Trading Post.

(2) 35 miles per hour:

(i) All other roads in the Park.

(3) As provided in § 1.42 (a) of this chapter, vehicles shall be operated at an appropriate reduced speed where so posted or when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow and winding road, and when special hazards exist with respect

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to pedestrians or other traffic, or by reason of weather or roadway conditions.

(i) *Regulations governing eating and drinking establishments on privately-owned lands*—(1) *Definitions*. The following definitions shall apply in the interpretation and enforcement of this section:

(i) *Restaurant*. The term "restaurant" shall mean restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, and all other eating or drinking establishments, as well as kitchens or other places in which food or drink is prepared for sale elsewhere.

(ii) *Employee*. The term "employee" shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.

(iii) *Utensils*. "Utensils" shall include any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation, or serving.

(iv) *Superintendent*. The term "Superintendent" shall mean the Superintendent of Rocky Mountain National Park or his authorized representative.

(v) *Person*. The word "person" shall mean person, firm, corporation, or association.

(2) *Examination and condemnation of unwholesome or adulterated food or drink*. Samples of food, drink, and other substances may be taken and examined by the Superintendent as often as may be necessary for the detection of unwholesomeness or adulteration. The Superintendent may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated.

(3) *Sanitation requirements for restaurants*. All restaurants shall comply with all of the following items of sanitation:

(i) *Floors*. The floors of all rooms in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair.

(ii) *Walls and ceilings*. Walls and ceilings of all rooms shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is stored or prepared shall be finished in light color. The walls of all rooms in which food or drink is prepared or utensils are washed shall have a smooth, washable surface up to the level reached by splash or spray.

(iii) *Doors and windows*. When flies are prevalent, all openings into the outer air shall be effectively screened and doors shall be self-closing, unless other effective means are provided to prevent the entrance of flies.

(iv) *Lighting*. All rooms in which food or drink is stored or prepared or in which utensils are washed shall be well lighted.

(v) *Ventilation*. All rooms in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be well ventilated.

(vi) *Toilet facilities*. Every restaurant shall be provided with adequate and conveniently located sanitary toilet facilities for its employees, conforming to the requirements of the Superintendent. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well lighted and ventilated. Hand-washing signs shall be posted in each toilet room used by employees. In case privies or earth closets are permitted and used, they shall be of a sanitary type, separate from the restaurant building, and shall be fly and rodent proof.

(vii) *Water supply*. Running water under pressure shall be easily accessible to all rooms in which food is prepared or utensils are washed, and the water supply shall be adequate, and of a safe, sanitary quality.

(viii) *Lavatory facilities*. Adequate and convenient hand-washing facilities shall be provided, including hot and cold running water, soap, and approved sanitary towels. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without first washing his hands.

(ix) *Construction of utensils and equipment*. All multi-use utensils and all show and display cases or windows, counters, shelves, tables, refrigerating equipment, sinks, and other equipment or utensils used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and shall be kept in good repair. Utensils containing or plated with cadmium or lead shall not be used: *Provided*, That solder containing lead may be used for jointing.

(x) *Cleaning and bactericidal treatment of utensils and equipment*. (a) All equipment, including display cases or windows, counters, shelves, tables, refrigerators, stoves, hoods, and sinks, shall be kept clean and free from dust, dirt, insects, and other contaminating material. All cloths used by waiters, chefs, and other employees shall be clean. Single-service containers shall be used only once.

(b) All multi-use eating and drinking utensils shall be thoroughly cleaned and effectively subjected to an approved bactericidal process after each usage. All multi-use utensils used in the preparation or serving of food and drink shall be thoroughly cleaned and effectively subjected to an approved bactericidal process immediately following the day's operation. Drying cloths, if used, shall be clean and shall be used for no other purpose.

(c) No article, polish, or other substance containing any cyanide preparation or other poisonous material shall be used for the cleansing or polishing of utensils.

(xi) *Storage and handling of utensils and equipment*. After bactericidal treatment, utensils shall be stored in a clean, dry place protected from flies, dust, and other contamination, and shall be handled in such a manner as to prevent contamination as far as practicable. Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until

used, and shall be handled in a sanitary manner.

(xii) *Disposal of wastes*. All wastes shall be properly disposed of, and all garbage and trash shall be kept in suitable receptacles, in such manner as not to become a nuisance.

(xiii) *Refrigeration*. All readily perishable food and drink shall be kept at or below 50° F. except when being prepared or served. Waste water from refrigeration equipment shall be properly disposed of.

(xiv) *Wholesomeness of food and drink*. All food and drink shall be clean, wholesome, free from spoilage, and so prepared as to be safe for human consumption. All milk, fluid milk products, ice cream, and other frozen desserts served shall be from approved sources. Milk and fluid milk products shall be served in the individual original containers in which they were received from the distributor or from a bulk container equipped with an approved dispensing device: *Provided*, That this requirement shall not apply to cream, which may be served from the original bottle or from a dispenser approved for such service. All oysters, clams, and mussels shall be from approved sources, and if shucked shall be kept until used in the containers in which they were placed at the shucking plant.

(xv) *Storage, display, and serving of food and drink*. All food and drink shall be so stored, displayed, and served as to be protected from dust, flies, vermin, depredation and pollution by rodents, unnecessary handling, droplet infection, overhead leakage, and other contamination. No animals or fowls shall be kept or allowed in any room in which food or drink is prepared or stored. All means necessary for the elimination of flies, roaches, and rodents shall be used.

(xvi) *Cleanliness of employees*. All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils, or equipment. Employees shall not expectorate or use tobacco in any form in rooms in which food is prepared.

(xvii) *Miscellaneous*. The premises of all restaurants shall be kept clean and free of litter or rubbish. None of the operations connected with a restaurant shall be conducted in any room used as living or sleeping quarters. Adequate lockers or dressing rooms shall be provided for employees' clothing and shall be kept clean. Soiled linens, coats, and aprons shall be kept in containers provided for this purpose.

(4) *Disease control*. No person who is affected with any disease in a communicable form or is a carrier of such disease shall work in any restaurant, and no restaurant shall employ any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease. If the restaurant manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease he shall notify the Superintendent immediately. A placard containing this section shall be posted in all toilet rooms.

(5) *Procedure when infection suspected.* When suspicion arises as to the possibility of transmission of infection from any restaurant employee the Superintendent may require any or all of the following measures:

(i) The immediate exclusion of the employee from all restaurants.

(ii) The immediate closing of the restaurant concerned until no further danger of disease outbreak exists, in the opinion of the Superintendent.

(iii) Adequate medical examinations of the employee and of his associates, with such laboratory examinations as may be indicated.

§ 7.8 Sequoia-Kings Canyon National Parks.

(a) *Stock driveways.* (1) So long as it may be available for such purpose, the present county road extending from the west boundary of Kings Canyon National Park near Redwood Gap to Quail Flat junction of the Generals Highway and the old road beyond is designated for the movement of stock and vehicular traffic, without charge, to and from national forest lands on either side of the General Grant grove section of the park. Care must be exercised to prevent stock from straying from the right-of-way.

(2) Nooning at Redwood Gap is permitted, provided the stock are first driven beyond the developed area.

(3) In emergencies other stock driveway crossings in the General Grant grove section of the park may be used without charge under special arrangements first made with the superintendent of the parks.

(b) *Camping.* Within the campgrounds or other occupied areas of the Sequoia National Park, quiet must be maintained between the hours of 10:00 p. m. and 6:00 a. m.

(c) *Entrance roads.* (1) Automobiles will be permitted to enter Sequoia National Park through the Ash Mountain and Lost Grove Checking Stations between the hours of 5:00 a. m. and 9:00 p. m. except on Saturdays and days preceding a holiday, on which days entrance will be permitted until 11:00 p. m. Vehicles may leave the park through these stations only between the hours of 6:00 a. m. and 10:00 p. m.

(2) Vehicle travel is prohibited within the Giant Forest and Lodgepole areas between the hours of 11:00 p. m. and 5:00 a. m. except on Saturdays and the days preceding holidays, when the hours shall be 12:00 midnight to 5:00 a. m.

(d) *Speed.* Special speed limits within Sequoia National Park are as follows:

(1) Generals Highway: Through Ash Mountain Headquarters, Hospital Rock Camp and Giant Forest Village area where signs are posted, 15 miles per hour.

From Giant Forest Lodge to General Sherman Tree where sign is posted, 25 miles per hour.

(2) Moro Rock Crescent Meadow, and Wolverton Roads where sign is posted, 25 miles per hour.

(3) Lodgepole and Giant Forest Camp Roads, 15 miles per hour.

(4) North Fork Road, 25 miles per hour.

(5) Bear Hill Road, 15 miles per hour.

(6) Ash Mountain and Potwisha Camp Roads, 15 miles per hour.

(7) On curves where driver's view is obstructed within a distance of 200 feet along such highway in the direction in which the vehicle is proceeding, 15 miles per hour.

(8) At all intersections, 15 miles per hour.

(9) At intersections, road crossings or ranger stations where posted with "Stop" signs, all vehicles shall come to a full stop before proceeding.

(e) *Fishing.* (1) The fishing season shall conform to that of the State of California.

(2) The limit of catch per person per day shall be 10 fish, not exceeding 10 pounds of fish and 1 fish. Possession of more than 1 day's catch of fish by any person at any one time is prohibited. No minimum size limit for trout is prescribed in the parks.

(3) A California State fishing license is required of all persons 16 years of age or over fishing in the Parks.

(4) In Sequoia National Park the following waters are closed to fishing as a fish conservation measure, and as protection to domestic water supplies, watersheds, and meadows:

(i) On the watershed of the North Fork of the Kaweah River: Yucca Creek and tributaries from confluence with North Fork to sources from July 1 to close of season; Cabin Creek from Generals Highway to source.

(ii) On the watershed of the Marble Fork of the Kaweah River: Deer Creek from the foot bridge on the Sunset-Village Trail to source, except to children 10 years of age or younger; that section of Wolverton Creek from the dam upstream to the source, except to persons 15 years of age or younger; at the pond held by the dam; and Silliman Creek from Generals Highway to source at outlet of Silliman Lakes.

(iii) On the watershed of the Middle Fork of the Kaweah River: Crescent Creek from source to High Sierra Trail Bridge at lower Crescent Meadow.

(5) In Kings Canyon National Park the following waters are closed to fishing as a conservation measure, and as protection to domestic water supplies, watersheds, and meadows:

(i) On the watershed of the South Fork of the Kings River: Sheep Creek and its tributaries from source to Park boundary; Lewis Creek from Park boundary where signs are posted at the intake of the water supply to the first trail crossing; and Comb Creek from Lewis Creek to trail crossing.

§ 7.9 Shiloh National Military Park.

(a) *Maximum weights of vehicles.* The maximum weight of any vehicle using the park roads, including the load of such vehicle, shall not exceed 18,000 pounds.

(b) *Speed.* Except where different speed zones are indicated by signs or markers, speed of automobiles and other vehicles, except ambulances and cars on official emergency trips, shall not exceed 35 miles per hour.

§ 7.10 Zion National Park.

(a) *Limitations on load, weight, and size of vehicles.* (1) *Maximum size of vehicles.*

| | Feet |
|--|------|
| Total width of vehicle, including load. | 8 |
| Total height of vehicles with load. | 10½ |
| Total length of single vehicle. | 35 |
| Total length of combination of vehicles. | 55 |

(2) *Maximum weight of vehicles.* The load limits on single axles, wheels and tires, and the maximum gross weight of vehicles and loads, shall be the same as the limits prescribed by the laws of Utah.

(b) *Prohibited vehicles.* (1) The Zion-Mt. Carmel Road within the park shall be open to commercial truck traffic only during those times (approximately from October 1 to June 1) when the Zion-Bryce Canyon Approach Road, Utah State Route 14, is closed to such traffic.

(2) During the period October 1 to June 1, vehicles exceeding 30,000 pounds gross vehicle weight will be permitted over park roads throughout the 24-hour day. Before and after this period such vehicles will be permitted to operate over park roads only when Utah 14 is closed to such traffic, and then only during the hours of 10 p.m. and 6 a.m. local standard time.

Nothing in this section shall be construed to prohibit vehicles complying with Utah State weight and size limitations, owned by the Federal, State or county government, from passage over park roads when used in connection with official operations.

(c) *Convoy required; convoy fee.* No vehicle, including any load or equipment thereon, which exceeds 8 feet in width, or exceeds 10 feet 6 inches in height, or exceeds 35 feet in length single or 55 feet in length combination, may be driven over the highways in Zion National Park except under convoy by the Chief Ranger or some person acting under his authority. Drivers or owners of vehicles will not control the traffic except under the direction of the Chief Ranger or other person acting under his authority. For providing the required convoy service a convoy fee shall be charged for each vehicle or combination of vehicles, including vehicles entitled to waiver of the automobile permit fee in accordance with § 6.2(f) of this chapter. For vehicles not entitled to such waiver the convoy fee shall be in addition to the automobile permit fee. For convoy fees see Part 6 of this chapter.

(d) *Speed.* Speed in the Park, except in emergencies as provided in § 1.42 (a) of this chapter, is limited to 35 miles per hour except where lower limits are prescribed and posted.

§ 7.11 Lassen Volcanic National Park.

(a) *Fishing; open season.* In all waters open to fishing, the season shall be in accordance with that established by the State of California.

(b) *Fishing; limit of catch and in possession.* The limit of catch and in possession per person per day shall be 10 fish, or 10 pounds of fish and 1 fish, in all waters except Manzanita Lake and Re-

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fection Lake, where the daily limit of catch shall be 5 fish, or 5 pounds of fish and 1 fish. All fish caught, regardless of size, shall be retained.

(c) *Fishing; closed waters.* The following waters are closed to fishing:

Manzanita Creek.

Grassy Sway Creek.

Grassy Creek.

Emerald Lake.

Manzanita Lake, within 150 feet of inlet and outlet.

(d) *Entrance roads.* The Manzanita Lake and Sulphur Works entrances will be open from 6:00 a.m. to 10:00 p.m. daily.

(e) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42 (b) of this chapter, are as follows:

(1) 25 miles per hour:

(i) On the Hat Creek Road, Butte Lake Road, Warner Valley Road, and Juniper Lake Road.

(2) 20 miles per hour

(i) In any business, residential, or Government service area.

(ii) Upon that portion of any road or highway which passes through or borders upon a public campground, picnic area, parking area, or other place of public assemblage.

(3) In every event, vehicles shall be driven or operated at appropriate reduced speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow and winding road, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or roadway conditions.

(f) *Commercial automobiles and buses.* The prohibition against the admission of commercial automobiles and buses to Lassen Volcanic National Park, contained in § 1.36 of this chapter shall be subject to the following exception: Motor vehicles operated on a general, infrequent, and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, will be accorded admission to the park upon establishing to the satisfaction of the superintendent that the tour originated from such place and in such a manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the park pursuant to contract authorization with the Secretary. Admission to the park will be accorded such motor vehicles upon payment of a special tour permit fee. For fees applicable to such vehicles, see Part 6 of this chapter.

S 7.12 Kennesaw Mountain National Battlefield Park.

(a) *Speed.* Speed of automobiles and other vehicles except ambulances and Government cars on emergency trips on Kennesaw Mountain Road is limited to 25 miles per hour.

S 7.13 Yellowstone National Park.

(a) *Weight and size limits for vehicles.*

(1) No vehicle which has a gross weight, including vehicle and load, in excess of

10 tons, shall be operated on or across the following bridges:

(i) The bridge across the Yellowstone River near Tower Junction on the Northeast Entrance road.

(ii) The bridge across the Lewis River south of Lewis Lake on the South Entrance road.

(2) No two-axle vehicle which has a gross weight, including vehicle and load, in excess of 12 tons, and no vehicle having three or more axles which has a gross weight, including vehicle and load, in excess of 15 tons, and no vehicle having a gross weight in excess of 400 pounds per inch width of tire, shall be operated or moved upon any park road, except on that portion of U. S. Highway 191 lying within the boundary of the park on which highway the limits shall be as follows:

(i) No vehicle shall carry more than 18,000 pounds on any one axle.

(3) No vehicle shall be operated or moved upon any park road when the total outside width and length, including the load thereon, exceeds 8 feet in width and 33 feet in length for a single vehicle, or 60 feet in length for a combination of vehicles, or when the total height of a vehicle, including the load thereon, exceeds 12 feet 6 inches, except on that portion of U. S. Highway 191 lying within the boundary of the park on which highway the size limits shall be as follows:

(i) Buses shall be no more than 102 inches in width. Other vehicles shall be no more than 96 inches in width. No vehicle, including load, shall be more than 15 feet in height. Buses shall not be more than 40 feet in length. Single trucks shall not be more than 35 feet in length. Combinations of vehicles shall be no more than 60 feet in length.

(b) *Traffic control.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, shall not exceed the following prescribed limits:

(1) At Bridge Bay from a point approximately 3.7 miles west of Lake Junction on the road to West Thumb, along the entire length of the concrete wall for a distance of .6 mile, 25 miles per hour.

(2) The road between Mammoth Village and the North Entrance; the road between Canyon Junction and Chittenden Bridge; and the road from Norris Junction eastward to the beginning of the new park road at Station 412, approximately 3.5 miles west of Canyon Junction, 35 miles per hour; except that portion of the road through the Virginia Cascades to the top of Blanding Hill posted at 25 miles per hour.

(3) Passenger cars, and trucks of less than 1½ tons capacity, 45 miles per hour on straight and open stretches. Trucks of 1½ tons capacity or over, and vehicles towing trailers or other vehicles of any kind, 30 miles per hour. Except, on that portion of U. S. Highway 191 lying within the boundary of the park, the speed limits shall be as follows: Single vehicles and trucks with gross weight of 4,000 pounds or less, 65 miles per hour; this limit is reduced to 55 miles per hour during the hours of darkness; combination vehicles, and trucks with gross weight of more than 4,000 pounds, 45 miles per hour.

(4) Travel shall be restricted to one direction when posted on the esplanade at Mammoth Hot Springs, the esplanade at Old Faithful Village, the Bunsen Peak loop road, and the Mammoth Terrace loop road.

(5) *Careless driving.* The operating of any vehicle upon a park road in a careless and heedless disregard of the rights or safety of others, or without due caution, or at a speed or in a manner so as to endanger or be likely to endanger any person or property is prohibited.

(6) *Stop signs.* (i) No person shall drive any vehicle onto any road from another road in the Park without coming to a complete stop, provided, however, there are erected appropriate signs at such locations.

(ii) The term "road" means any street, highway turnout, parking area or public thoroughfare.

(7) *Parking.* No person shall park any vehicle in a posted restricted area except in case of bona fide emergency or for administrative purposes.

(i) The following places are designated as restricted parking areas: All bridges and the immediate surrounding areas of natural features, concession establishments, Government buildings, amphitheatres, and camp and picnic grounds. Provided, however, there are erected appropriate signs at such locations.

(c) *Trucking.* The park superintendent may issue permits for the use of park roads for trucking, for which fees shall be charged. For schedule of fees, see Part 6 of this chapter.

(d) *Boats—(1) Permit.* A permit, issued by the Superintendent, is required for all boats operated upon the waters of the park. This permit must be carried within the boat at all times when any person is aboard, and shall be exhibited upon request to any person authorized to enforce the regulations in this chapter. A violation of the regulations, or disregard of the conditions outlined, by the permittee or other persons using the boat, will constitute cause for the cancellation of the permit.

(2) *Commercial operation.* No privately owned boat shall be used to carry passengers for hire or be used in any commercial operation.

(3) *Size limitation.* No privately owned boat more than 32 feet in length measured through the middle of the boat from bow to stern, and no sailboat of any type, houseboat, or any similar type water craft, shall be placed or operated upon waters of the park. Except for administrative purposes or emergencies, motor-propelled boats may be placed or operated only on Yellowstone, Lewis, and Shoshone Lakes and the channel between Shoshone and Lewis Lakes, and on the Yellowstone River from the outlet of Yellowstone Lake to a point 300 yards below Fishing Bridge.

(4) *Removal of boats.* All privately owned boats, boat trailers, water-borne craft of any kind, buoys, mooring floats, and anchorage equipment will not be permitted in the Park prior to May 1 and must be removed by November 1.

(5) *Boat equipment and requirements.* All boats operated upon Park

waters are subject to the following requirements:

(i) All boats operated from sunset to sunrise must display the following lights:

(a) Class A (less than 16 feet in length). A clear white light showing all around the horizon and visible for one mile.

(b) Class I (16 feet to less than 26 feet in length). Same light requirement as Class A boats.

(c) Class II (26 feet to 32 feet in length). Individual running lights, red to port and green to starboard, visible for one mile. A bright white light aft showing all around the horizon and visible for two miles, also a bright white light forward showing from right ahead to two points abaft the beam on both sides and visible for two miles.

(ii) Boats shall carry an approved warning device as follows:

(a) Class A boats. No warning device required.

(b) Class I boats. A hand, mouth, or power operated whistle or horn, capable of producing a blast for at least two seconds duration and audible for a distance of at least one-half mile.

(c) Class II boats. Same requirement as Class I boats except the device shall be capable of producing a blast audible for a distance of at least one mile.

(iii) All boats shall carry an approved life preserver, ring buoy, or buoyant cushion in good and serviceable condition for each person on board. Such devices shall be properly secured and stowed so as to be readily accessible in emergency.

(iv) All boats having built-in or in-board motors shall carry approved fire extinguishers as follows:

(a) Class A and Class I boats. One hand operated and portable fire extinguisher. This may be a 1 1/4-gallon foam, 4-pound carbon-dioxide, one quart carbon-tetrachloride or a 4-pound dry chemical, or larger.

(b) Class II boats. One fixed carbon-dioxide system and two hand operated, portable extinguishers of an approved type, such as 2 1/2-gallon foam, 15-pound carbon-dioxide or 12-pound dry chemical.

(v) All boats powered with inboard motors which use gasoline as fuel are subject to the following conditions:

(a) Carburetors shall be fitted with an approved device which has demonstrated its ability to arrest backfire.

(b) In decked over boats, two or more ventilators are required, with cowl or equivalent capable of removing gases from bilges in engine and fuel tank compartments. Bilges must be kept free of oil, gasoline and grease.

(c) Drip pans are required on all up-draft carburetors. These pans are to be equipped with a fine mesh wire screen cover to prevent the overflow from catching fire.

(d) The fuel tank filler pipe must be outside the cabin and cockpit, and so constructed that spillage of gasoline will not flow into the bilge. A vent of not less than 3/8-inch diameter is required from the fuel tank to the outside of the hull and shall be independent of the filler pipe.

(vi) Galley and cabin stoves shall be of such type and installation as approved by the Underwriters Laboratories.

(a) Approved types of galley stoves are those which use coal, charcoal, wood, alcohol, fuel oil or kerosene as fuel. Stoves which use gasoline as fuel are prohibited.

(b) Where a galley or cabin stove is installed, it shall be firmly attached, insulated from the woodwork, and so located that it does not endanger flammable material.

(vii) General conditions. (a) Fuel lines must be intact with no leaks and must have a shut-off valve installed near the fuel tank in a readily accessible location.

(b) Electrical wiring must be in good condition.

(c) All boats must carry a bailing bucket on board in addition to whatever bilge pumps or automatic bailing devices with which they may be equipped.

(d) All boats 26 feet or less in length shall be equipped with oars and oarlocks, or carry a sweep adequate to propel the boat in case of engine failure.

(6) *Special limits for small boats.* No boat 16 feet or less in length measured through the middle of the boat from bow to stern, canoe (regardless of length), or other water-borne craft not propelled by a motor, shall be operated at a distance of more than one quarter mile from the shore of any lake.

(7) *Rules of the road.* The following rules of the road shall be observed:

(i) The operation of boats in such a manner as to endanger life or property is prohibited.

(ii) In narrow channels, boats shall be operated to the right of the middle of the channel.

(iii) When approaching or passing other water craft, speed shall be reduced so that the wake does not endanger the other craft.

(iv) Slow speed shall be maintained in docking and fishing areas so as not to endanger persons or other craft.

(v) Right-of-way shall be given larger craft.

(8) *Registration of trip.* The operator of each boat leaving for an extended trip, including trips of overnight duration, shall register both upon departure and return at one of the following Ranger Stations: Lake Ranger Station, Fishing Bridge Ranger Station, West Thumb Ranger Station, South Entrance Station, Old Faithful Ranger Station, and East Entrance Station.

(9) *Sanitation.* No fish offal, bottles, cans, rubbish, or refuse shall be discarded from any boat or water-borne craft into Park waters, or from docks, or from the shores, or otherwise placed in the waters of the Park. Boats, not equipped with or utilizing sewage and waste treatment equipment (consisting of shredding, retention, and chlorination prior to discharge) are hereby prohibited from discharging head and/or galley wastes within one-half mile of low water mark or any domestic water supply intake. All boats or other water-borne craft operating in park waters shall have a receptacle aboard to contain rubbish and refuse which shall be

emptied only into facilities provided at docks or other specified places.

(10) *Limitation of boat loads.* No boat or other water-borne craft shall be operated on any water of the park with more than a safe capacity load of passengers or supplies. The following formula shall be used to determine the maximum safe load for boats and other water-borne craft: Maximum safe load (in pounds) = $7\frac{1}{2} \times \text{length in feet measured through the middle of the boat} \times \text{width in feet amidship} \times \text{depth in feet amidship}$.

(11) *Restricted landing areas.* The landing of boats or other water-borne craft on either of the islands designated as "Molly Islands" in Yellowstone Lake, or passage of boats or other water-borne craft between these islands, or the disturbance in any manner of the birds inhabiting the same or nesting thereon, is prohibited, except upon written permission of the Superintendent. Prior to July 1 of each year, the landing of any boat or other water-borne craft on the lake shore between Trail Creek and Beaverdam Creek is prohibited.

(12) *Restricted waters.* The operation of any boat, canoe, raft, or other water-borne craft on park streams (as distinguished from lakes) is prohibited, except on the channel between Lewis Lake and Shoshone Lake and on the Yellowstone River from the outlet of Yellowstone Lake to a point 300 yards below Fishing Bridge.

(i) The operation of any canoe, raft, boat, or other water-borne craft of any kind is prohibited on Squaw, Goose, Feather, Sylvan, Eleanor, and Twin Lakes, and Beach Springs Lagoon.

(ii) The operation of any motor-propelled water-borne craft is prohibited south and west of the buoy markers in Flat Mountain Arm of Yellowstone Lake.

(iii) Water skiing, boat racing, towing of aircraft, water pageants, and other spectacular and often unsafe types of recreational use are prohibited on all park waters.

(iv) These restrictions shall not apply to craft operated for administrative purposes or in emergencies.

(e) *Fishing.* (1) *Open season.* Except as otherwise provided, the open season for fishing in the waters of the park shall be from sunrise on May 30 to sunset on October 15.

(2) *Limited open season.* (i) Riddle Lake, Grebe Lake, Wolf Lake, the stream connecting Grebe and Wolf Lakes and the Yellowstone River and its tributaries from the Upper Falls at Canyon to the marking buoys at the outlet of Yellowstone Lake are open to fishing from sunrise on July 1 to sunset on October 15. Yellowstone Lake and Squaw Lake are open to fishing from sunrise on June 15 to sunset on October 15.

(ii) All streams emptying into Yellowstone Lake, except those closed for management or cultural purposes, are open to fishing from sunrise on July 15 to sunset on October 15. Streams trapped for egg taking purposes are closed during the spawning season. Closure of such streams will be indicated by signs. Mouths of streams shall include those portions of Yellowstone Lake marked by

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signs and buoys within 100 yards of the stream outlet and/or inlet.

(3) *Night fishing.* Night fishing is prohibited in all waters of the Park open to fishing during specific hours of Mountain Standard Time as follows:

(i) From opening of fishing season to August 31: 9:00 p. m. to 4:00 a. m.

(ii) From September 1 to close of fishing season: 8:00 p. m. to 5:00 a. m.

(4) *Closed waters.* (1) The following waters of the Park are closed to fishing:

Indian Creek, Panther Creek, Duck Lake, Arnica Creek, a tributary of Yellowstone Lake, Obsidian Creek, upstream from the Bridge at the entrance to Indian Creek Campground, Cascade Creek, Mammoth Water Supply Reservoir, Yellowstone River for a distance of 250 yards on either side of the center of the Yellowstone Cascades, Firehole River, from the Old Faithful water supply intake to the Shoshone Lake Trail crossing above Lone Star Geyser, Gardiner River and Glen Creek for their entire length above the Mammoth water supply intake.

(ii) Fishing from the shores of the following waters is prohibited:

From West Thumb boat dock north along the shore of Yellowstone Lake to the mouth of Little Thumb Creek.

(5) *Limit of catch and in possession.* The limit of catch per day by each person fishing, and the limit of fish in possession at any one time by any one person, shall be 10 pounds of fish (dressed weight with heads and tails intact), plus one fish, not to exceed a total of 5 fish.

(i) In Yellowstone Lake, that portion of the Yellowstone River above the Upper Falls at Canyon, and the streams entering into these waters, the limit of catch per day by each person fishing, and the limit of fish in possession at any one time by any person, shall be 10 pounds of fish (dressed weight with heads and tails intact), plus one fish, not to exceed a total of 3 fish.

(6) *Restrictions on use of bait and lures.* (i) No salmon eggs or other fish eggs, either fresh or preserved, shall be used as bait. The possession of such salmon eggs or other fish eggs is prohibited within the park.

(ii) Only artificial flies, with a single hook, may be used as lures in the Firehole River, Madison River, Squaw Lake, and that section of the Gibbon River extending from the mouth of the stream to the crest of Gibbon Falls. The use of any lures, other than artificial flies, in these waters is prohibited.

(f) *Commercial automobiles and busses.* The prohibition against the admission of commercial automobiles and busses to Yellowstone National Park, contained in § 1.36 of this chapter, shall be subject to the following exceptions: Motor vehicles operated on a general, infrequent, and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, will, subject to the conditions set forth in this paragraph, be accorded admission to the park for the purpose of delivering passengers to a point of stay while in the park. After passengers have completed their stay, such motor vehicles shall leave the park by the most convenient exit station, considering their destination. Motor ve-

hicles admitted to the park under this paragraph shall not, while in the park, engage in general sightseeing operations. Admission will be accorded such vehicles upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such a manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the park, pursuant to contract authorization from the Secretary. The Superintendent shall have the authority to specify the route to be followed by such vehicles within the park. Admission to the park will be accorded such motor vehicles upon payment of a special tour permit fee. Applicable fees are set forth in Part 6 of this chapter.

(g) *Camping—(1) Limitations.* Occupancy of each campground in Yellowstone National Park by any person, party, or organization during any calendar year during the period July 1 to Labor Day, inclusive, shall not exceed 30 days except as hereinafter specified.

(i) Occupancy of Madison, Old Faithful, West Thumb, Lewis Lake, Fishing Bridge, Cascade, and Canyon campgrounds shall not exceed 15 days during the period July 1 to Labor Day, inclusive.

(ii) Occupancy of primitive campgrounds on Yellowstone and Shoshone Lakes shall not exceed 7 days during the period July 1 to Labor Day, inclusive.

(2) *Hours of quiet.* Quiet shall be maintained in all camp-grounds and hotels and other buildings during the period from 10:00 p. m. to 6:00 a. m. and the use of any noise producing device, such as motors or television sets, to the annoyance or disturbance of other persons, is prohibited during such periods.

(h) *Dogs and cats.* (1) Dogs and cats on leash, crated, or otherwise under physical restraint are permitted in the park only along established roads, walks, and paths within one quarter mile of roads or parking areas except as hereinafter stated.

(2) Dogs and cats are prohibited in the following locations:

(i) On trails more than one quarter mile from roads, and in primitive camps.

(ii) In establishments dispensing food to the public.

(iii) In possession of any employee residing in the park.

(i) *Alcoholic liquors.* (1) Definitions for the purposes of this section:

(i) The term "minor" means any person under 21 years of age regardless of marital status.

(ii) The term "alcoholic liquor" includes alcohol, spirits, wine and beer and every liquid containing alcohol, spirits, wine and beer and capable of being consumed as a beverage by a human being.

(iii) The term "person" includes any natural person, corporation, partnership or association.

(2) The sale of alcoholic liquor within the park by any person not authorized to do so by written permit or contract issued by the Superintendent or the National Park Service is prohibited. This does not apply to employees of per-

sons to whom permits have been issued, in carrying out their assigned duties.

(3) No person authorized to sell alcoholic liquor shall sell any alcoholic liquor between the hours of one o'clock a. m. Sunday and six o'clock a. m. Monday. No person authorized to sell alcoholic liquor shall sell alcoholic liquor on week days between the hours of one o'clock a. m. and six o'clock a. m.

(4) No person authorized to sell alcoholic liquor within the park shall employ any minor to sell or dispense alcoholic liquor or permit any minor to sell or dispense any alcoholic liquor for him.

(5) No person shall sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquors, to or for any minor, any person who is mentally incompetent or any person who is mentally or physically incapacitated by the consumption of such liquors.

(6) No minor may sell or dispense or have in his possession or physical control any alcoholic liquor.

(7) No minor shall obtain, or attempt to obtain alcoholic liquor by misrepresentation of age, or by any other method in any place where alcoholic liquor is sold.

(8) No person authorized to sell alcoholic liquors shall engage in, allow, permit or suffer in or upon the premises where such alcoholic liquor is sold any disturbances, lewdness, immoral activities or displays, brawls or allow, permit, or suffer the premises where alcoholic liquors are sold to be conducted in such a manner as to become a nuisance public or private.

S 7.14 Great Smoky Mountains National Park.

(a) *Fishing—(1) Open and closed waters.* All Park waters are open to fishing except the following:

(i) North Carolina: That part of Raven Fork and all tributaries thereof lying upstream from the Cherokee Indian Reservation boundary at Big Cove; and all of the following waters: Lands Creek; Mingus Creek; and Chestnut Branch.

(ii) Tennessee: All waters of the Middle Prong of Little Pigeon River above the point where Ramsey Prong enters it.

(2) *Time.* Fishing is permitted from sunrise to sunset only.

(3) *General open season.* Fishing is permitted from May 16 to August 31, inclusive. Special open seasons are listed under subparagraph (7) of this paragraph.

(4) *Restrictions as to use of bait.* Fishing is permitted only with artificial flies or lures with one hook. Possession of insect adults, pupae and larvae, earthworms, amphibians or mammals, or parts thereof, along any stream while in possession of fishing tackle shall be considered *prima facie* evidence of violation of this section.

(5) *Size limits.* No fish less than 7 inches long may be retained. All fish caught, less than seven inches in length, shall be carefully handled and returned at once to the water. (Special size limits are listed under subparagraph (7) of this paragraph.)

(6) *Limit of catch and in possession.* Five fish is the maximum number of trout or bass, or combination thereof, which an angler may catch and retain in any one day or have in his possession at any time. Immediately upon retention of the fifth fish, the fisherman must disassemble his fishing tackle and cease fishing. There is no creel limit on other species of fishes.

(7) *Restrictions and exceptions in certain waters of the Park.* The following waters are designated as "Sport Fishing Streams" and subject to the following restrictions:

(i) The waters of Little River, exclusive of the Middle Prong and its tributaries, lying downstream from Millsap Picnic Area to the Park boundary; and the waters of the Oconaluftee River, North Carolina, lying downstream from the Kephart bridge to the Park boundary, excepting Mingus Creek, are open to "sport fishing" from September 1 to May 16 inclusive. During this period of time the following restrictions are in effect:

(a) Fishing restricted to artificial flies or lures containing one hook.

(b) No fish less than 16 inches in length may be retained. All fish less than 16 inches must be handled carefully with moist hands and returned immediately to the stream.

(ii) The waters of Bradley Fork and its tributaries, North Carolina, and West Prong of Little Pigeon River and its tributaries, Tennessee:

(a) No closed season.

(b) Fishing restricted to artificial flies or lures containing one hook.

(c) No fish less than 16 inches in length may be retained. All fish less than 16 inches must be handled carefully with moist hands and returned immediately to the stream.

(8) *License.* The National Park Service makes no charge for fishing, but persons fishing within the Park must procure the resident or nonresident State license issued and required by Tennessee, or the resident or nonresident State or county license or permit issued and required by North Carolina. The possessor of a resident fishing license issued by the State of North Carolina shall not fish on the Tennessee side of the Park without first having obtained a fishing license issued by the State of Tennessee, and the possessor of a resident fishing license issued by the State of Tennessee shall not fish on the North Carolina side of the Park without first having obtained a fishing license issued by the State of North Carolina. The possessor of a nonresident license issued by the State of Tennessee or by the State of North Carolina may fish throughout the Park during the open season.

(b) *Fires.* The lighting of fires for any purpose on or along Park roads, except at designated campgrounds and picnic areas, is prohibited.

(c) *Camping.* (1) Camping within one-eighth mile of any open public road, except at designated public camp or picnic grounds, is prohibited.

(2) Camping within one-half mile of the tower on Clingmans Dome is prohibited.

(3) Camping or trespassing on the watershed of any stream furnishing domestic water supply is prohibited.

(d) *Speed.* Except where different speed limits are indicated by posted signs or markers, speed of automobiles and other vehicles, except ambulances and cars on official emergency trips, shall not exceed 35 miles per hour on park roadways.

(e) *Report of accidents by wrecker operators.* Before the operator of a commercial wrecking car shall attempt to remove any vehicle involved in an accident within the Park, he shall take reasonable steps to ascertain whether any of the persons involved in the accident have reported it to the appropriate Park authority, and if he does not ascertain that a report of the accident has been made, he shall report the accident to the nearest Park authority.

(f) *Load and vehicle weight limitations.* From May 15 to October 15, inclusive, between the hours of 8:00 a. m. and 6:00 p. m., trucks over one and one-half tons capacity, and trucks of one and one-half tons capacity carrying a load in excess of 5,000 pounds, shall not be operated or moved over any road in Great Smoky Mountains National Park.

§ 7.15 Shenandoah National Park.

(a) *Fishing—(1) Applicability of regulations.*

The regulations in this section shall govern fishing on those portions of all streams lying wholly within the Park, including those portions of the Conway River, the Rapidan River, and the North and South Forks of Moormans River. Along those portions of the streams which follow the boundary line of the Park, the State of Virginia laws and regulations governing fishing shall apply.

(2) *Waters.* All waters in the Park are open to trout fishing only.

(3) *Season.* The opening date of the trout fishing season shall conform with that of the State of Virginia and shall close on the same date as the State, or October 15, whichever date is earlier.

(4) *Size limit.* Trout under nine (9) inches in length shall not be retained. All undersized fish shall be immediately and carefully returned to the water.

(5) *Limit of catch.* The limit of catch per day, or possession by each person fishing, shall not exceed eight (8) fish.

(6) *Bait.* Only artificial lures such as artificial flies, spinners, or bugs shall be used. Fishing with multiple hooks (double, treble, or gang) is prohibited.

(7) *State licenses.* No special Park license is required, but persons fishing within the Park must first procure an appropriate fishing license issued by the State of Virginia.

(8) *Emergency closing of waters.* During any period of emergency, or to prevent over-use by fishermen of waters open to fishing in Shenandoah National Park, the Superintendent, in his discretion, may close to fishing all or any part of such open waters for such periods of time as may be necessary: Provided, The notice thereof shall be given by the posting of appropriate signs, notices, and markers.

(b) *Speed.* Except where different speed zones are indicated by signs or markers, speed of automobiles and other vehicles, except ambulances and cars on official emergency trips, shall not exceed 35 miles per hour on park roadways.

(c) *Travel on roads and trails.* Any or all roads or trails may be closed to public use by order of the Superintendent when, in his judgment, conditions make travel thereon hazardous or dangerous, or when such action is necessary for the proper protection, administration and maintenance of the Park.

§ 7.16 Yosemite National Park.

(a) *Fishing—(1) Open season.* The open season for fishing within the Park shall conform with that of the State of California for the adjoining counties of Tuolumne, Mariposa, and Madera.

(2) *Open and closed waters.* The waters of Lake Eleanor and its tributaries for a distance of 1 mile from the lake are closed to fishing.

(3) *Limit of catch.* The number of fish that may be taken by any one person in any one day shall not exceed ten fish, or ten pounds and one fish. Possession of more than one day's catch limit by any person at any one time is prohibited.

(4) *Fishing from horseback.* Fishing from horseback in any lake or stream is prohibited.

(5) *Gathering or securing grubs.* Gathering or securing grubs for bait through the destruction or tearing apart of down trees or logs within sight of roads, trails or inhabited areas is prohibited.

(b) *Closed roads.* (1) The road between Hetch Hetchy Dam and Lake Eleanor is closed to all motor vehicle travel except vehicles belonging to the United States Government, the State of California, or the City of San Francisco, California.

(2) The access road, approximately eight-tenths of a mile in length, between the new Big Oak Flat Road and the summit of the Coulterville Road grade near Big Meadows, is closed to all motor vehicle travel except vehicles belonging to the United States Government and other vehicles used in connection with the administration, protection, and maintenance of the park.

(c) *Trucking.* No commercial trucks will be permitted on the Tioga Road except those used in connection with the activities of the United States Government, the State of California, or agencies operating under contract or agreement with the United States Government to render service to the public in the park, or trucks delivering supplies, materials, etc., to the United States Government, the State of California, or contractors or permittees in the park.

(d) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42 (b) of this chapter, are as follows, when appropriate signs giving notice thereof are erected:

(1) 15 miles per hour:

(i) When passing a school building, or the grounds thereof, contiguous to the highway during school recess or while children are going to or leaving such school during opening or closing hours or

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while the playgrounds of any such school are in use by school children.

(ii) Upon roadways within public campgrounds.

(2) 20 miles per hour:

(i) In any business or residence district.

(ii) Upon that portion of any highway which borders upon a public campground, parking area, or place of public assemblage.

(3) 25 miles per hour on the Tioga Road between McSwain Meadows and Cathedral Creek:

(i) On Big Oak Flat Road between Crane Flat and Carl Inn.

(ii) Through Mariposa Grove.

(4) 45 miles per hour:

(i) On Tioga Road between Tioga Pass and Cathedral Creek.

(ii) On Tioga Road between Crane Flat and McSwain Meadows.

(iii) On Glacier Point Road between Badger Pass intersection and Sentinel Dome.

(5) 35 miles per hour on all other public roads in the Park.

(6) In every event, vehicles shall be driven or operated at appropriate reduced speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow and winding road, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or roadway conditions.

(e) *Camping.* Quiet shall be maintained at all camps between 10:00 p. m. and 6:00 a. m.

(f) *Registration of vehicles.* Motor vehicles driven or moved upon a park road in Yosemite National Park must be registered and properly display current license plates. Such registration may be with a State or other appropriate authority or, in the case of motor vehicles operated exclusively on park roads, with the Superintendent of the Park. An annual registration fee will be charged for vehicles registered with the Superintendent which are not connected with the operation of the Park. This fee will be found in Part 6 of this chapter.

(g) *Bicycles.* Bicycles are prohibited on all business sidewalks serving concession operations and public facilities.

§ 7.17 Platt National Park.

(a) *Use of park waters.* The superintendent may, whenever it becomes necessary to do so, restrict the use of the waters of any of the springs to immediate drinking purposes at such springs.

(b) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42, are as follows:

(1) The maximum speed of all vehicles on the Perimeter Road is limited to 25 miles per hour.

(2) On that part of Oklahoma State Highway No. 18 within the Park the maximum speed shall be limited to 35 miles per hour.

(3) On all dangerous curves, posted as such, on all roads within the Park the maximum speed is limited to 25 miles per hour.

§ 7.18 Hot Springs National Park.

(a) *Speed.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 15 miles per hour on all roads in the campground area.

(b) *Use of water.* The taking or carrying away of water, hot or cold, from any of the springs, fountains, or other sources of supply in Hot Springs National Park for the purpose of sale, or for any use other than personal drinking, is prohibited.

§ 7.19 Morristown National Historical Park.

(a) *Speed.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 30 miles per hour on straight stretches, and to 15 miles per hour on curves.

§ 7.20 Moores Creek National Military Park.

(a) *Visiting hours.* The park shall remain open to visitors from 7:00 a. m. to 6:00 p. m. between May 1 and September 30, and from 7:00 a. m. to 5:00 p. m. between October 1 and April 30: *Provided*, That the superintendent may open the park at such other times as may be deemed expedient for the convenience of the public: *Provided further*, That the superintendent may close the park to all visitors when, in his judgment, such action is necessary for the protection of the park or the public.

§ 7.21 Guilford Courthouse National Military Park.

(a) *Travel on roads.* Travel on roads within the park is limited to passenger carrying vehicles, except:

(1) Vehicles belonging to the United States Government, the State of North Carolina, the County of Guilford, North Carolina, or the City of Greensboro, North Carolina.

(2) Privately owned vehicles temporarily engaged under contract with an agency enumerated in subparagraph (1) of this paragraph.

(3) Privately owned vehicles engaged wholly in hauling or trucking to or from property in the vicinity of the park, where the use of the park roads is necessary as a means of ingress to or egress from a public road.

(b) *Prohibited devices.* The operation or movement upon any road of any vehicle fitted with flanges, ribs, clamps, cleats, lugs, spikes, or any device which may tend to damage the roadway, is prohibited.

(c) *Load and vehicle weight limitations.* No vehicle equipped with pneumatic tires shall be operated or moved upon any road which has:

(1) A total weight, including vehicle and load, in excess of twelve thousand (12,000) pounds.

(2) A total weight, including vehicle and load, in excess of six thousand (6,000) pounds on any one axle, or in excess of three thousand (3,000) pounds on any one wheel.

(3) For vehicles equipped with solid rubber tires, the maximum weight, including vehicle and load, shall not ex-

ceed seventy-five (75%) percent of the maximum weights prescribed in subparagraphs (1) and (2) of this paragraph.

(4) For vehicles equipped with tires made in whole or in part of metal, the total weight, including vehicle and load, shall not exceed four hundred (400) pounds per inch of tire width.

(5) The provisions of this paragraph shall not apply to traction engines or tractors the propulsive power of which is exerted by means of a flexible band or chain known as a movable track, when the portions of the movable track in contact with the surface of the roadway present plain surfaces.

(d) *Speed.* The speed of automobiles and other vehicles, except Government cars and ambulances on emergency trips, is limited to 30 miles per hour on all roads.

(e) *Exception.* The regulations in this section shall not apply to traffic on U. S. Highway No. 220.

§ 7.22 Grand Teton National Park.

(a) *Speed.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, shall not exceed the speed limits listed below for the following designated roads:

(1) Jenny Lake Road, 35 miles per hour.

(2) Wilson Road, 25 miles per hour.

(3) Signal Mountain Road, 20 miles per hour.

(4) Jackson Hole Highway between the south and east park boundary, 60 miles per hour.

(b) *Fishing.* (1) (i) The open season for fishing in Grand Teton National Park shall be from June 1 through October 31, except where otherwise specifically stated.

(ii) Jackson Lake shall be open during the calendar year except from September 20 through November 14.

(iii) The Snake River proper shall be open from May 1 through October 31.

(iv) There shall be an open season for whitefish fishing only on the Snake River from January 1 through March 15 and from December 1 through December 31.

(2) The following waters shall be closed to fishing at all times: The Snake River for a distance of 150 feet below the lower face of Moran Dam; and Cottonwood Creek from the outlet of Jenny Lake to the Horse Concession bridge.

(3) There shall be a creel limit of 12 game fish, or ten pounds and one fish (whichever is reached first) per day or in possession, except that the creel limit for Jackson Lake shall be 6 game fish or ten pounds and one fish (whichever is reached first) per day in possession. The limit of whitefish shall be 25 per day with a possession limit of three days' catch.

(4) The use or possession of fish eggs or fish for bait is prohibited in all Park waters, except that it shall be permissible to use and have in possession dead fish for use as bait on or along the shores of Jackson Lake. Authorized dealers in bait fish may retain such fish in live condition in containers removed from any fishing waters, but such fish must be dead when sold.

(5) Fishing from any bridge or boat dock in the Park is prohibited.

(6) The use of rafts or boats propelled by any type of motor is prohibited on Leigh Lake, Taggart Lake, Bradley Lake, Two Ocean and Emma Matilda Lakes and the Snake River, except for official management purposes. The use of rafts or boats of any type is prohibited within 1000 feet of the lower face of the Moran Dam.

(7) During any period of emergency, or to prevent overuse by fishermen, the Superintendent may close to fishing all or any part of such open waters for such periods of time as may seem necessary; provided that notice thereof shall be given by the posting of appropriate signs or markers.

(c) *Stock grazing.* (1) Permits for the grazing of domestic livestock based on authorized use of certain areas at the time of approval of Public Law 787, September 14, 1950, shall continue in effect or shall be renewed from time to time, except for failure to comply with the conditions and terms applicable thereto after reasonable notice of default and subject to the following provisions of tenure:

(i) Grazing privileges appurtenant to privately owned lands located within the park shall not be withdrawn until title to lands to which such privileges are appurtenant shall have vested in the United States.

(ii) Grazing privileges appurtenant to privately owned lands located outside the park shall not be withdrawn for a period of twenty-five years, after September 14, 1950, and thereafter during the lifetime of the original permittee and his heirs if they were members of his immediate family as described below:

(a) Members of the immediate family are those persons who are related to and were living with and directly dependent upon a person, or persons, living on or conducting grazing operations from lands, as of September 14, 1950, which the Service recognized as base lands appurtenant to grazing privileges in the park. Such interpretation excludes mature children who, as of that date, were established in their own households and were not directly dependent upon the base lands and appurtenant grazing recognized by the National Park Service.

(iii) If title to base lands lying outside the park is conveyed, or such base lands are leased to someone other than a member of the immediate family of the original permittee, the grazing preference shall be recognized only for a period of twenty-five years from September 14, 1950.

(2) Where no reasonable access or egress is available to permittee or non-permittee stockmen who must cross park lands to reach grazing allotments and State or private lands within the exterior boundary of the park or to National Forest, State or private lands adjacent to the park, The Superintendent will grant, upon request, a temporary non-fee annual permit to herd stock across the park on a designated driveway, provided such herding does not require more than two trips across the park during the grazing season or consume more than five days per trip in

either direction. Permittees or non-permittees who allow stock to remain on Federal lands within the park in excess of the time granted in the temporary permit, or at any time or place, when or where herding or grazing is unauthorized may be assessed fifty cents per day per animal.

(3) Grazing preferences are based on actual use during the period March 15, 1938 through September 14, 1950 and henceforth no increase in the number of animals or animal unit months will be allowed on Federal lands in the park.

(4) (i) Any permittee whose grazing privilege is appurtenant to privately owned lands within the park will be granted non-use or reduced benefits for one or more years without nullifying his privilege in subsequent years.

(ii) A permittee whose privilege is appurtenant to lands outside the park may be granted non-use on a year to year basis not to exceed three consecutive years unless such a request is clearly beyond his control for such reasons as National emergencies due to protracted labor shortages, economic depressions, etc. Whenever non-use or reduced benefits are desired a written request must be made to the Superintendent at least 60 days before the grazing season starts.

(5) Grazing fees in the park shall be the same as those charged on the adjoining Teton National Forest and may be adjusted annually.

(d) *Camping.* No person, party or organization shall be permitted to camp more than 30 days in any one calendar year in each of the following campgrounds: Colter Bay, Jackson Lake, Pelican Bay and Lizard Point campgrounds. Camping in the Jenny Lake campground shall not exceed 10 days in any calendar year.

(e) *House trailers.* The Jenny Lake and Colter Bay campgrounds are closed to house trailers.

§ 7.23 George Washington Birthplace National Monument.

(a) *Travel on roads.* The following roads are open to travel during daylight hours only:

(1) The road from the Monument Circle to and including the Mansion Grounds and utility area;

(2) The Duck Hall Loop Road, except to patrons of the Log House Tea Room and the Picnic Grounds;

(3) The parking loops at the Burial Grounds and River Shore.

(4) The speed of automobiles and other vehicles, except government vehicles on emergency trips, is limited to 35 miles per hour.

§ 7.24 Catoctin Mountain Park.

(a) *Fishing.* (1) Persons desiring to fish in the waters lying within the boundaries of the Catoctin Mountain Park in Frederick County, Maryland, must first procure an angler's license as required by the laws of the State of Maryland.

(2) The open season for fishing shall be from April 15 to September 15, inclusive. Fishing is permitted only be-

tween the hours of 5:30 a.m. and 8:00 p.m.

(3) Fishing with other than artificial flies is prohibited in or on all waters except Owens Creek.

(4) The catch or creel limit of trout shall be five fish per person per day, all of which must be legal length in conformance with the laws of the State of Maryland.

§ 7.25 Hawaii National Park.

(a) *Speed.* The speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, shall not exceed the following prescribed limits:

(1) On the Mamalahoa Highway 45 miles per hour except where signs are posted giving notice of a lower limit.

(2) Through the headquarters area, Kilauea section, 25 miles per hour.

(3) Through the Kilauea Military Camp area, 25 miles per hour.

(4) On the Crater Rim Road and the Chain of Craters Road, 35 miles per hour.

(5) On the Hihina Pali Road, 20 miles per hour.

(6) On roads in the Residential Area and Utility Area, Kilauea section, 15 miles per hour.

(7) On the Haleakala Road, 30 miles per hour, except that speed is limited to 15 miles per hour on all curves.

(8) On the Mamalahoa Highway, trucks of one and one-half ton capacity or over, and all vehicles towing trailers, 30 miles per hour, except where a lower limit is prescribed.

(b) *[Reserved]*

(c) *Camping.* Camping is prohibited in the Haleakala section unless a permit is first secured from the official in charge of this section of the park.

(d) *Fishing.* (1) All fishing or the gathering of sea food accomplished from the lands of the park comprising the seacoast boundary will be in conformance with existing State laws. Native Hawaiian residents of the Kalapana extension area added to the park pursuant to the act of June 20, 1938 (52 Stat. 781; 16 U. S. C. 396a), or of adjacent villages and visitors under their guidance are granted the exclusive privilege of fishing or gathering sea food along the shore line of such area. These persons may engage in commercial fishing, under proper State permit, and do not require a special fishing permit from the Superintendent for fishing, or the gathering of sea food in such area. Other than as noted above, commercial fishing is prohibited along the seacoast of Hawaii National Park and all fishing, or the gathering of sea food is prohibited unless a permit has first been secured from the Superintendent.

(2) The use of throw nets in fishing along the shore line is permitted.

(e) *Bicycles.* (1) Bicycle riders shall keep well to the right on all roads.

(2) Bicycles shall not be ridden abreast of one another, except on straight stretches of road where there is clear visibility ahead and to the rear for at least 300 feet.

(3) The riding of bicycles on trails is prohibited.

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(4) Bicycle riders shall operate their vehicles so as to have complete control over the vehicle at all times.

(f) *Picnicking.* Picnicking or the eating of meals of any kind is prohibited in Kipuka Puaulu and the area adjacent to Thurston Lava Tube. Persons desiring to picnic or eat meals of any kind at places other than the designated picnic or camp grounds must first secure a permit from the Superintendent.

§ 7.26 Death Valley National Monument.

(a) *Mining.* Mining in Death Valley National Monument is subject to the following regulations, which are prescribed to govern the surface use of claims therein:

(1) The claim shall be occupied and used exclusively for mineral exploration and development and for no other purpose except that upon written permission of an authorized officer or employee of the National Park Service the surface of the claim may be used for other specified purposes, the use to be on such conditions and for such period as may be prescribed when permission is granted.

(2) The owner of the claim and all persons holding under him shall conform to all rules and regulations governing occupancy of the lands within the National Monument.

(3) The use and occupancy of the surface of mining claims as prescribed in subparagraphs (1) and (2) of this paragraph shall apply to all such claims located after the date of the act of June 13, 1933 (48 Stat. 139; 16 U. S. C. 447), within the limits of the National Monument as fixed by Proclamation No. 2028 of February 11, 1933, and enlarged by Proclamation No. 2228 of March 26, 1937, and to all mining claims on lands hereafter included in the National Monument, located after such inclusion, so long as such claims are within the boundaries of said Monument.

(4) Prospectors or miners shall not open or construct roads or vehicle trails without first obtaining written permission from an authorized officer or employee of the National Park Service. Applications for permits shall be accompanied by a map or sketch showing the location of the mining property to be served and the location of the proposed road or vehicle trail. The permit may be conditioned upon the permittee's maintaining the road or trail in a passable condition as long as it is used by the permittee or his successors.

(5) From and after the date of publication of this section, no construction, development, or dumping upon any location or entry, lying wholly or partly within the areas set forth in subdivisions (i) to (iii) of this subparagraph, shall be undertaken until the plans for such construction, development, and dumping, insofar as the surface is affected thereby, shall have been first submitted to and approved in writing by an authorized officer or employee of the National Park Service:

(i) All land within 200 feet of the center line of any public road.

(ii) All land within the smallest legal subdivision of the public land surveys containing a spring or water hole, or

within one quarter of a mile thereof on unsurveyed public land.

(iii) All land within any site developed or approved for development by the National Park Service as a residential, administrative, or public campground site. Such sites shall include all land within the exterior boundaries thereof as conspicuously posted by the placing of an appropriate sign disclosing that the boundaries of the developed site are designated on a map of the site which will be available for inspection in the office of the Superintendent. If not so posted, such sites shall include all land within 1,000 feet of any Federally owned buildings, water and sewer systems, road loops, and camp tables and fireplaces set at designated camp sites.

(b) *Use of water.* No works or water system of any kind for the diversion, impoundment, appropriation, transmission, or other use of water shall be constructed on or across Monument lands, including mining claims, without a permit approved by an authorized officer or employee of the National Park Service. Application for such permit shall be accompanied by plans of the proposed construction. The permit shall contain the following conditions: (1) No diversion and use of the water shall conflict with the paramount general public need for such water; (2) such water systems shall include taps or spigots at points to be prescribed by the Superintendent, for the convenience of the public; and (3) all appropriations of water, in compliance with the State water laws, shall be made for public use in the name of the United States and in accordance with instructions to be supplied by an authorized officer or employee of the National Park Service.

(c) *Permits.* Application for any permit required by this section shall be made through the Superintendent of the Monument.

(d) *Filing of copies of mining locations.* From and after the publication of this paragraph, in order to facilitate the administration of the regulations in this part, copies of all mining locations filed in the Office of the County Recorder shall be furnished to the office of the Superintendent, Death Valley National Monument, by the person filing the mining location in his own behalf or on behalf of any other person.

§ 7.27 Fort Jefferson National Monument.

(a) *Fishing.* (1) No coral, shells, sea fans, or other forms of marine life found in the water, whether alive or dead, except fish, crayfish, and the common species of conch known as giant stromb (Strombus gigas), shall be taken or disturbed. Dead shells found about the low tide line on Loggerhead Key and Garden Key may be taken by visitors. Dead shells found above the low tide line on other keys shall not be taken without a permit from the Custodian. Dead shells occupied by hermit crabs shall not be taken or disturbed.

(2) Sea turtles, or the eggs thereof, whether on land or in the water, shall not be taken or disturbed.

(3) (i) Salt water crayfish (Panulirus argus), known locally as "crawfish",

"Florida Lobster", or "Caribbean Spiny Lobster", shall not be caught or taken between March 21 and July 21, inclusive.

(ii) Salt water crayfish caught or taken measuring less than 12 inches from tip of head to tip of tail, exclusive of "feelers", shall be immediately returned to the water alive unless seriously injured. Those retained because seriously injured shall be counted in the day's catch and shall be surrendered to the superintendent or his representative.

(4) The limit per person per day is 2 crayfish, including those retained because seriously injured, except that the total for any vessel having more than 12 persons aboard shall not exceed twenty-five.

(5) The taking or catching of crayfish for commercial purposes is prohibited.

(6) No conchs known as the giant stromb (Strombus gigas) shall be caught or taken except for food or for bait. The shells of conchs caught or taken for such purposes may be retained for non-commercial purposes. Conchs may not be taken for commercial purposes.

(7) The limit per person per day is 2 conchs, except that the total for any vessel having more than 12 persons aboard shall not exceed twenty-five.

(8) Fishing from vessels that engage in any commercial fishing or shrimp activity, and the taking of fish for the purpose of sale by any other boats or vessels not so engaged, is prohibited in the area of the national monument described as follows:

Beginning at Pulaski Shoal Light, at latitude 24°41'38" North, longitude 82°46'23" West, thence on a straight line to a point at latitude 24°38'00" North, longitude 82°48'00" West; thence on a straight line to a buoy "N2" at latitude 24°37'23" North, longitude 82°49'48" West; thence in a straight line to a buoy "C1" at latitude 24°35'35" North, longitude 82°52'19" West; thence in a straight line to a buoy "N8" at latitude 24°35'07" North, longitude 82°54'07" West; thence in a straight line to a buoy "C-1" at latitude 24°36'27" North, longitude 82°55'40" West; thence in a straight line to a buoy "N-10" at latitude 24°36'39" North, longitude 82°57'27" West; thence in a straight line to a point at latitude 24°40'57" North, longitude 82°54'16" West; thence in a straight line to a point at latitude 24°41'50" North, longitude 82°53'10" West; thence in a straight line to a point at latitude 24°42'22" North, longitude 82°51'50" West; thence in a straight line to a point at latitude 24°42'53" North, longitude 82°49'34" West; and thence in a straight line to a point at latitude 24°42'44" North, longitude 82°48'20" West; and thence in a straight line to the point of beginning at Pulaski Shoal Light.

(9) (i) The taking of live bait in the area described in subparagraph (8) of this paragraph is prohibited, except minnows or "pilchers" may be taken anywhere in the area by cast net of twelve foot diameter or under, or by hook and line.

(ii) Possession at any time of more than one day's supply of bait so taken is prohibited. No bait shall be taken for the purpose of sale.

(10) No underwater marine life shall be disturbed or taken from the most or from the shoal waters surrounding Garden Key or Bush Key, or from the shoal waters of Long Key north of the 5-foot channel, where depths of water at mean

low tide are less than 15 feet. The possession of fishing tackle, nets, spears, or gigs within such areas shall be prima facie evidence that the person or persons possessing the same are guilty of unlawful fishing in such waters: *Provided*, That the provisions of this paragraph shall not be construed to prohibit sport fishing in the deep water channels or from any pier within the area or to the taking of minnows by cast net as described in subparagraph (9) of this paragraph.

(b) *Prohibited anchorage.* All vessels are prohibited from anchoring in the channels immediately surrounding Garden Key, at any point southerly from and between marker No. 1 of the East channel and marker No. 1 of the West channel: *Provided*, That passenger carrying vessels and yachts carrying visitors to historic Fort Jefferson will be permitted to anchor temporarily within the above-described channel in such a manner as not to obstruct the passage of other vessels or craft. No vessels shall be moored at any of the piers of Fort Jefferson except with the permission of the Superintendent.

(c) *Dumping of refuse prohibited.* Dumping of trash, oily liquids or wastes, or refuse of any kind in the waters or on the beaches or lands of the national monument is prohibited.

(d) *Protection of wildlife.* Landing in any area which is used as a nesting or roosting place by summer nesting birds, or the molesting of any terrestrial wildlife, is prohibited. The Superintendent may, upon application of qualified persons, issue permits to study or photograph the birds at roosting or nesting sites.

§ 7.28 Olympic National Park.

(a) *Fishing.*—(1) *Open season.* The opening date of the season for fishing in Park streams, Lake Mills, Lake Crescent and Irley Lake shall conform to that of the State of Washington for streams and lowland lakes for the adjoining counties of Clallam, Jefferson, Mason and Grays Harbor. The opening date for all other Park Lakes shall be July 4. The closing date for all fishing except for the special steelhead trout fishing season shall be October 31, subject to the following exceptions and restrictions:

(i) The following streams or portions thereof are open to fishing of steelhead trout only, from the opening date of the season for steelhead trout fishing established by the State of Washington for adjoining counties, to February 28, inclusive; all tributaries thereof are closed except otherwise indicated:

Bogachiel River.
Dosewallips River below falls.
Queets River below Tshletshy Creek.

Hoh River, including South Fork.

Quinault River, including North Fork below Wolf Bar Shelter and the East Fork below Graves Creek.

Soleduck River below the North Fork Soleduck.

(ii) Fishing is prohibited from one hour after sunset until sunrise.

(iii) In that part of Olympic National Park known as the Queets Corridor and the Olympic Ocean Strip, and other areas which were added to the Park by proclamation of the President, dated

January 6, 1953 (Proclamation 3003, 18 F.R. 169, 3 CFR, 1949-1953 Comp., p. 178), fishing shall be done in conformity with the laws and regulations promulgated by the State of Washington for these areas.

(2) *Closed waters.* The following waters and their tributaries are closed to fishing:

Cat Creek.

Entire Morse Creek watershed except Lake Angeles and P.J. Lake.

(3) *Size limit.* Steelhead trout of less than 12 inches in length and fish of any other species less than 6 inches in length, when caught, shall be released by carefully handling with moist hands and returned at once to the water.

(4) *Limit of catch and in possession.* The limit of catch per person per day shall not exceed 10 fish or 10 pounds of fish and one fish, except as otherwise provided.

(i) Between the opening day of the season and February 28 inclusive, the limit of catch of steelhead trout shall not exceed 3 fish per person per day or 6 fish per week, or 24 fish per winter season, less the number of steelhead trout caught by each person in the State of Washington outside Olympic National Park. Each person possessing a State of Washington fishing license shall account for his catch of steelhead trout in the Park in the same manner as required by the State of Washington for fish caught outside the Park.

(ii) The limit of catch per person per day in Lake Crescent shall not exceed 10 fish or 10 pounds and one fish, of which no more than one fish may exceed 18 inches in length.

(iii) Possession of more than one day's catch limit by any one person at any one time is prohibited.

(5) *Bait.* (i) Fishing with any line, gear, or tackle having more than two spinners, spoons, blades, flashers, or like attractions, and with more than one transparent or black rudder, and more than three (3) hooks attached to such line, gear, or tackle, is prohibited.

(ii) The placing or depositing of fish eggs, fish roe, food, or other substances in any Park waters for the purpose of attracting, collecting, or feeding fish, is prohibited.

(6) *Pollution of waters.* The cleaning of fish in Park lakes or streams, or depositing of fish entrails, heads, gills, or other refuse in any Park lake or stream is prohibited.

(7) *License.* A license to fish in Park waters is not required except that a Washington State or County fishing license is required for fishing in Lake Angeles, located in section 15, T. 29 N., R. 6 W., W.M.; and within those portions of Olympic National Park known as the Queets Corridor and Olympic Ocean Strip, and in sections 1 to 6 inclusive, T. 27 N., R. 11 W., W.M. and in sections 1 to 3 inclusive, T. 27 N., R. 12 W., W.M. which were added to the Park by proclamation of the President dated January 6, 1953 (Proclamation 3003, 18 F.R. 169, 3 CFR, 1949-1953 Comp., p. 178).

(b) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42 (b) of this chapter are as follows:

(1) Basic Speed Rules:

(i) Every person operating or driving a vehicle of any character upon the roads in Olympic National Park shall operate the same in a careful and prudent manner and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of the traffic, weight of vehicle, grade and width of highway, condition of surface and freedom of obstruction to view ahead and consistent with any and all conditions existing at the point of operation so as not to unduly or unreasonably endanger the life, limb, property or other rights of any person entitled to the use of such roads.

(ii) The operator of any motorized vehicle, when entering a curve on any narrow road, must exercise due care to the extent that he or she is at all times able to bring the vehicle to a full stop within one-half of the unobstructed sight distance ahead.

(iii) No vehicle shall pass a school bus loading or unloading passengers.

(2) Maximum speed 25 miles per hour.

(i) When upon that portion of any highway which passes through or borders upon a public campground, parking area, or other place of public assemblage and when upon the following public roads:

Deer Park road.

Dosewallips road.

Hurricane Ridge road above Elwha Ranger Station area.

North Fork Quinault road east of Finley Creek.

Staircase road.

(ii) When approaching or traversing a section of highway posted as "Construction" or "Men Working" or similarly, unless a lesser speed limit is posted.

(3) Maximum speed 35 miles per hour:

(i) When upon the following roads:

East Beach Road—Lake Crescent.

East Fork Quinault Road.

Elwha to Olympic Hot Springs Road.

Hoh Road.

North Fork Quinault Road west of Finley Creek.

North Shore Road—Lake Crescent.

Queets Road.

Rialto Beach Road.

Soleduck Road.

Heart O' the Hills Road to Hurricane Ridge.

(ii) Maximum speed of trucks, or combinations of trucks and trailers, having a gross weight of 10,000 pounds is limited to 35 miles per hour on U. S. Highway 101 and to 25 miles per hour on all other park roads.

(4) Special speed limits:

(i) Whenever the Superintendent, Olympic National Park, determines that a temporary condition or situation exists upon or adjacent to a road, which requires a reduced speed limit, the Superintendent may designate a lesser speed limit, which shall be effective when appropriate signs giving notice thereof are erected upon such road.

(5) Due care required: Compliance with speed requirements as set forth in this paragraph shall not relieve the operator of any vehicle from the further

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exercise of due care and caution as further circumstances shall require.

(c) *Accommodations for hunters.* In that part of Olympic National Park known as Queets Corridor and Ocean Strip, which was added to the Park by Proclamation of the President of January 6, 1953 (Proclamation 3003, 18 F.R. 169; 3 CFR, 1949-1953 Comp., p. 178), hunters may, during State authorized open hunting seasons for deer and elk, establish camps at locations designated by the Superintendent or obtain accommodations at lodging concessions for the purpose of hunting outside the Park.

(d) *Dogs and cats.* Dogs and cats, under physical restrictive control, are permitted on public highways only while in transit status, and are permitted only in such developed areas as are accessible by road. Such animals are prohibited in public eating establishments, community kitchens, and swimming pools located on Government lands.

(e) *Privately owned lands—(1) State health and safety laws.* Owners of privately owned lands and occupants of private lands (including business establishments) in that portion of Olympic National Park over which jurisdiction has been ceded by the State of Washington to the United States of America shall comply with the standards concerning safety and health established from time to time by or pursuant to the laws of the State of Washington which would apply to such lands, owners, and occupants if such lands were not located in Olympic National Park and personnel of the Park will consult and cooperate with State officials in the administration of this regulation. Although safety and health standards established from time to time by or pursuant to the laws of the State of Washington shall apply, such owners, and occupants of privately owned lands (including business establishments), shall not be required to obtain permits or licenses from the State of Washington or its political subdivisions, but shall submit plans for public use structures to the Superintendent, Olympic National Park, for approval.

(2) *State forest practice laws.* Any person, firm, or corporation harvesting or cutting timber on privately owned lands within that portion of Olympic National Park over which jurisdiction has been ceded by the State of Washington to the United States of America shall comply with the standards concerning forest practices established from time to time by or pursuant to the laws of the State of Washington which would apply to such operations if they were not being conducted in Olympic National Park and personnel of the Park will consult and cooperate with State officials in the administration of this regulation. Although forest practice standards established from time to time by or pursuant to the laws of the State of Washington shall apply, no person, firm, or corporation harvesting timber, on such privately owned lands shall be required to obtain permits or licenses from, or pay fees to, the State of Washington or its political subdivisions in connection with the harvesting or cutting of timber on such lands. Prior to the initiation of harvesting or cutting of timber on privately

owned lands over which jurisdiction has been ceded to the United States, such operations shall be registered with the Superintendent of Olympic National Park.

(3) *Conflict with Federal laws.* If the standards established from time to time by or pursuant to the laws of the State of Washington, specified in subparagraphs (1) and (2) of this paragraph, are lower than or conflict with any established by Federal laws or regulations applicable to privately owned lands within Olympic National Park, the latter shall prevail.

(f) *Fishing, pollution of waters.* The cleaning of fish in lakes or streams, or the depositing of fish entrails, heads, gills, or other refuse in any lake or stream, is prohibited.

(g) *Fishing; license.* A State or County Fishing license is required for fishing in Lake Angeles located in Section 15, T. 29 N., R. 6 W., W. M.; and within those portions of Olympic National Park known as the Queets Corridor and Olympic Ocean Strip, and in Sections 1 to 6 inclusive, T. 27 N., R. 11 W., W. M., and in Sections 1 to 3, inclusive, T. 27 N., R. 12 W., W. M., which were added to the park by proclamation of the President, dated January 6, 1953 (Proclamation 3003, 18 F.R. 169, 3 CFR, 1949-1953 Comp., p. 178).

§ 7.29 Bandelier National Monument.

(a) *Speed.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 15 miles per hour in campgrounds and Headquarters area.

§ 7.30 Bryce Canyon National Park.

Speed in the Park, except in emergencies as provided in § 1.42(a) of this chapter, is limited to 35 miles per hour except where lower limits are prescribed and posted.

§ 7.31 Vanderbilt Mansion National Historic Site.

(a) *Speed.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 15 miles per hour on all roads.

(b) *Admission to mansion.* No person or persons will be permitted to enter the mansion unless accompanied by National Park Service employees.

(c) *Fishing.* Fishing is prohibited.

(d) *Picnicking.* Picnicking is prohibited.

§ 7.32 Ocmulgee National Monument.

(a) *Speed.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 25 miles per hour.

§ 7.33 Statue of Liberty National Monument.

(a) *Checking parcels and baggage.* All parcels and bags, other than purses, brought within the Statue of Liberty National Monument shall be checked before the person or persons carrying such articles will be permitted to enter the statue: *Provided*, That this requirement may be waived by the monument superintendent or his represent-

ative in the case of bags or parcels which are voluntarily submitted for inspection of their contents.

§ 7.34 Blue Ridge Parkway.

(a) *Speed.* Except where lower speeds are indicated by signs or markers, speed of automobiles and other vehicles, except ambulances and cars on official emergency trips, shall not exceed 45 miles per hour.

(b) *Fishing; open season.* (1) The open season for fishing in the waters within the boundaries of the Parkway shall be the same as that prescribed for the State within which the waters lie. Fishing is prohibited from sunset to sunrise.

(2) The catch or creel limit, as well as the legal length of fish, shall be in conformance with the laws of the State within which the fish are caught.

(c) *Fishing license.* The Parkway does not charge a fee or require a permit for fishing, but persons desiring to fish in the waters within the boundaries of the Parkway must first obtain a proper license therefor as required by the laws of the State wherein the waters in which they desire to fish are located.

(d) *Parking and crossing permits for hunters.* During the hunting seasons prescribed by the States of North Carolina and Virginia between the dates of October 16 and January 31 hunters may, under permits issued by the Superintendent, park vehicles in designated parking areas and cross Parkway lands from and to their vehicles with dogs on leash, firearms with breach or chamber open, and wildlife lawfully killed on lands adjacent to the Parkway. The loading or unloading of any hunter, dog, or game from any point within the Parkway boundaries other than at previously designated parking areas is prohibited.

(e) *Reporting of accidents by wrecker operators and others.* Before any person shall attempt to remove any vehicle involved in an accident within the Parkway, he shall take reasonable steps to ascertain whether any of the persons involved in the accident have reported it to the appropriate Parkway authority and if he does not ascertain that a report of the accident has been made, he shall report the accident to the nearest Parkway authority.

(f) *Commercial hauling by trucks, station wagons, pickups, passenger cars, or other vehicles.* Commercial hauling on the Blue Ridge Parkway, for any purpose, by trucks, station wagons, pickups, passenger cars, or other vehicles, when such hauling is in no way connected with the operation of the Parkway, is prohibited, except that, in emergencies, special hauling permits may be issued by the Superintendent subject to the following restrictions and conditions:

(i) Hauling will not be permitted on Sundays or holidays.

(ii) If more than one truck is used for hauling they shall travel no closer than one-fourth mile apart to permit safe passing by Parkway motorists.

(iii) Hauling will not be permitted on the Parkway motor road between November 1, and April 1, except when in the judgment of the Superintendent or his

representative the ground is sufficiently frozen to insure no damage to the road.

(iv) Safety warning devices as prescribed by the Superintendent or his representative are required when loads or vehicles are of such weight or dimensions as to be a traffic hazard to normal Parkway travel.

(2) Gross loads shall not exceed the following:

(i) Two axle vehicles, single tires, 11,000 lbs.

(ii) Two axle vehicles, dual rear wheels, 20,000 lbs.

(iii) Three axle vehicles or combination of vehicles 35,000 lbs. provided the rear wheels are equipped with dual tires; that the maximum gross weight on any one axle shall not exceed 16,000 lbs.; and that no two axles shall be spaced less than 40 inches center to center. No wheels or axles shall be counted for the purpose of load determination unless they are equipped with brakes. Hauling of any loads which gross more than 35,000 lbs. will be in accordance with conditions and restrictions set forth by the Superintendent upon submission of conclusive evidence that the Parkway provides the only route to the delivery point, and that the proposed load cannot be broken down into loads which will conform to the foregoing weight limitations.

(3) When the ground is saturated with water or when other unusual conditions exist, the load limitations will be reduced or hauling suspended as ordered by the engineer in charge.

(g) *Commercial automobiles and buses.* (1) The commercial use of the Blue Ridge Parkway by all operators of public transportation facilities is prohibited: except that vehicles of the following classifications and under the conditions specified herein will be admitted to the Parkway by special written permit from the Superintendent or his representative.

(2) Motor vehicles operated commercially for sightseeing or recreational purposes, of a designed seating capacity of no more than 18 persons.

(3) Motor vehicles carrying only members of educational, welfare or scientific organizations, provided: that the tour or trip is initiated, organized and directed by the group or organization concerned, and that the tour is not advertised or sold to passengers by any group, organization, individual or transportation operator for profit.

(4) Motor vehicles rented or chartered by an organization or a group of individuals associating themselves for a tour of the Parkway, or for a tour on which the visit to the Parkway is an incident to such tour, subject to the same provisions as (3) above.

(5) Commercial motor vehicles of a seating capacity of no more than 25 persons will be permitted to use the Parkway between U.S. Route 70 at Oteen and N.C. State Route 80 at Buck Creek Gap, only for the purpose of traveling to and from Mount Mitchell State Park.

(6) The following types of vehicles are not deemed "commercial" within the meaning of this section, and may be admitted to the Parkway without permit when used under the following conditions:

(i) Pickups, when used noncommercially and only as passenger carrying vehicles and/or carrying personally owned baggage, camping equipment and related items used for vacation or recreational purposes.

(ii) Light trucks, up to and including a rated capacity of 1½ tons when used noncommercially and only to carry passengers for recreational or sightseeing purposes and/or personally owned baggage, camping equipment and related items used for vacation or recreational purposes, and when the number of people to be transported is large enough to require a vehicle of this size.

(iii) Vehicles built as or converted to a combination car and house trailer, when used exclusively for noncommercial recreational purposes.

(iv) Trailers, other than house trailers when used noncommercially to transport personally owned baggage, camping equipment, small boats and other similar items used for vacation or recreational purposes.

(h) *Boating.* (1) The use of boats of any kind on waters inside the boundaries of the Parkway is prohibited except as may be designated by the Superintendent.

(2) Boats using waters so designated by the Superintendent shall be restricted to vessels propelled by oars or paddles. The presence on these waters of boats equipped with any type sail or mechanical propulsion shall be deemed a violation of this paragraph.

§ 7.35 Gettysburg National Military Park.

(a) *Speed.* Speed of vehicles is limited to 25 miles per hour.

§ 7.36 Mammoth Cave National Park.

(a) *Fishing.* (1) Fishing with pole and line, rod and reel, and trot and throw lines is permitted all year.

(2) *Size limit:* There shall be no size limit. All fish caught shall be retained.

(3) *Creel limit:* The following creel limits shall apply:

| | |
|----------------------------------|----|
| Black bass..... | 10 |
| Rock bass or goggle-eye..... | 15 |
| Crappie..... | 30 |
| Jack salmon or walleye pike..... | 10 |
| Sauger or sand pike..... | 10 |
| Striped bass..... | 15 |
| Muskellunge..... | 5 |
| Northern pike..... | 5 |

(4) *Use of seines:* Seines which do not exceed 6 feet in length and 4 feet in width or height, with mesh not larger than ¼ inch may be used only in the following runs and creeks for procuring minnows and crawfish for bait, except that minnows and crawfish shall not be taken or caught for commercial purposes: Bylew, First, Second, Pine, Buffalo, Big Hollow, Ugly, Cub, Blowing Spring, Floating Mill Branch, Dry Branch and Mill Branch. As used in this subparagraph, the term "minnows" means any fish less than 6 inches in length, except those species mentioned in this subparagraph.

(5) *Live bait.* Live bait, other than worms, shall not be used in Sloans Crossing, Green or Doyel Ponds.

(6) *Worms:* Worms or grubs may not be dug in the park.

(7) *Bows and arrows:* Use of bows and arrows for the purpose of catching fish is prohibited.

(b) *Speed.* (1) Except where otherwise indicated, speed of automobiles and other vehicles, except Government vehicles on official emergency trips, shall not exceed 35 miles per hour on gravel or dirt roads within the park.

(2) At all times vehicles shall be driven at appropriate reduced speeds when approaching and crossing intersections not protected by stop signs, when approaching and rounding curves, when approaching hill crests, when traveling on narrow and winding roads, and where special hazards exist with respect to pedestrians or other traffic, or by reason of weather, roadway or other conditions.

(c) *Caves.* (1) No person or persons shall enter any cave within the boundaries of Mammoth Cave National Park with the exception of bona fide visitors to caves open to the general public without prior approval of the Superintendent.

(2) The unauthorized possession of any cave formation and/or other cave materials shall be *prima facie* evidence that the person or persons having the same are guilty of violating § 1.2 (a) of this chapter.

§ 7.37 Timpanogos Cave National Monument.

(a) *Speed.* Speed of vehicles is limited to 25 miles per hour.

§ 7.38 Isle Royale National Park.

(a) *Sport fishing, inland lakes and streams.* (1) The open season for fishing shall be as follows:

Brook trout, rainbow trout, brown trout, steelheads, and lake trout (Mackinaw trout), last Saturday in April to Labor Day, inclusive.

Muskellunge, northern pike, walleyed pike, and yellow perch, 1st of May to November 1st, inclusive.

(2) *Catch limits.* The maximum catch per person per day shall be as follows:

Brook trout, rainbow trout, brown trout, and steelheads, a combined total of 10 fish, but not more than 10 pounds of fish and 1 fish.

Lake trout (Mackinaw trout), 5 fish, but not more than 25 pounds of fish and 1 fish.

Northern pike, walleyed pike, and muskellunge, 5 fish of either species.

(3) *Minimum size limits.* Fish of the following sizes shall not be retained but shall be carefully handled with moist hands and returned at once to the water:

Brook trout, rainbow trout, brown trout, and steelheads, under 7 inches in length.

Northern pike and walleyed pike, under 14 inches in length.

Lake trout (Mackinaw trout), under 15 inches in length.

Yellow perch, under 6 inches in length.

Muskellunge, under 30 inches in length.

(4) *Number of fish in possession.* The number of fish in possession shall not exceed the maximum catch per person per day, as indicated herein.

(i) Live traps or holding nets are prohibited from use in the park waters. The only net permitted is the usual landing net following the capture of fish by the authorized rod, hook and line.

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(ii) The number of rods and lines permitted for each person while engaging in fishing in inland lakes in Isle Royale National Park shall be one, and the number of hooks permitted per line shall be no more than two each, either single, double, or treble.

(b) *Docking of commercial boats and watercraft.* No privately owned boat or other watercraft which is being used for commercial purposes shall dock or land at any Government-owned dock or pier of Isle Royale National Park, except in case of emergency, without a permit from the Superintendent who shall have authority to revoke the permit and require the immediate removal of such craft upon the failure of permittee to comply with terms and conditions of the permit.

(c) *Docking of commercial planes and aircraft.* No privately owned plane or other aircraft which is being used for commercial purposes shall dock or land at any Government-owned dock or pier of Isle Royale National Park, except in case of emergency, without a permit from the Superintendent who shall have authority to revoke the permit and require the immediate removal of such craft upon the failure of permittee to comply with terms and conditions of the permit.

(d) *Transportation of persons and things to the park.* (1) The Superintendent of Isle Royale National Park shall have the authority to refuse passage to any and all persons or things for just cause.

(2) Dogs, cats, or other domestic pets will not be transported to Isle Royale National Park by National Park Service boats, common carriers, or charter boats holding National Park Service docking permits.

(3) Persons using National Park Service boat transportation who render themselves obnoxious by disorderly conduct or misbehavior may be summarily removed from such vessels and put ashore at the closest port by the authorized officers of such vessels.

(e) *Boating.* (1) The speed of water-borne vessels shall be restricted to speeds reasonable for the time, place, and surrounding conditions; no such vessel shall be operated in a reckless or negligent manner so as to endanger the life, limb, or property of the Federal Government, or any person.

(2) The use of a motor on water-borne vessels on inland lakes is prohibited. Such vessels will be propelled by paddles, oars, or other means of hand propulsion only.

(3) No garbage or litter of any kind shall be thrown or dumped in the waters of inland lakes or in the coastal waters of Lake Superior within the established park boundaries, in picnicking or camping sites, on beaches or on any other lands of the area, but shall be burned or buried, or deposited at points or places designated for the disposal thereof.

(4) Toilets on water-borne vessels shall not be emptied into the waters of Isle Royale National Park when such vessels are at dock or within one mile of public docks or campgrounds.

§ 7.39 Mesa Verde National Park.

(a) *Hospital charges.* (1) Services rendered at the Aileen Nusbaum Hospital shall be charged for at the rates shown in Part 6 of this chapter.

(2) Patients requiring greater care or service than normally furnished at the hospital must employ a special nurse or attendant.

(3) Since the facilities at the hospital are inadequate for general hospitalization, patients requiring such hospitalization should be under a physician's care and must arrange for transfer to another hospital. The superintendent may waive this requirement in his discretion, or when the physical condition of the patient renders it necessary.

(4) Residence calls will be made by the nurse only when the condition of hospitalized patients permits her absence from the hospital.

(b) *Speed.* (1) The maximum speed of all vehicles on the Entrance Road and on the Ruins Roads up to the beginning of the loop sections is limited to 35 miles per hour.

(2) On the loop sections of the Ruins Roads, and those parts of the Headquarters Area Loop Road for which maximum limits are not prescribed by § 1.42 of this chapter 25 miles per hour, as posted.

(c) *Commercial automobiles and busses.* The prohibition against the admission of commercial automobiles and busses to Mesa Verde National Park, contained in § 1.36 of this chapter, shall be subject to the following exceptions: Motor vehicles operated on a general, infrequent, and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, will be accorded admission to the park upon establishing to the satisfaction of the superintendent that the tour originated from such place and in such manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the park pursuant to contract authorization with the Secretary. Admission to the park will be accorded such motor vehicles upon payment of a special tour permit fee. This fee is set forth in Part 6 of this chapter.

§ 7.40 Hopewell Village National Historic Site.

(a) *Fishing.* (1) Fishing between sunset and sunrise is prohibited.

(2) Fishing from boats is prohibited.

§ 7.41 Big Bend National Park.

(a) *Fishing; closed waters.* Fishing is permitted from the United States side of the Rio Grande River, except within Santa Elena, Mariscal, and Bequillas Canyons. All springs and ponds are closed to fishing.

(b) *Fishing; method.* (1) Fishing with rod and line, set lines and trot lines is permitted.

(2) Fishing from boats is prohibited.

(c) *Fishing; limit of catch.* The limit of catch per person per day shall be 20 pounds of fish and 1 fish.

(d) *Speed.* The maximum speed of automobiles and other vehicles, except

ambulances and Government cars on emergency trips, shall not exceed the following prescribed limits:

(1) In residential areas, as posted.

(2) On the Basin road from Basin Junction to the Basin, as posted.

(3) On all curves and grades where so posted, 15 miles per hour.

(4) Trucks of two and one-half tons capacity or over, 35 miles per hour.

(5) Cars towing trailers or other cars or vehicles of any kind, 35 miles per hour.

(6) Passenger cars and trucks of less than two and one-half tons capacity, 45 miles per hour on straight and open stretches.

§ 7.42 Pipestone National Monument.

(a) Indians desiring to quarry or work red pipestone shall first secure permits from the Director, which shall be issued without charge and shall be valid only during the calendar year in which they are issued. Applications for such permits may be addressed to the Director through the superintendent. The Director may limit the number of permits in operation at any one time consistent with the area available for camp sites and in the interest of conserving the pipestone.

(b) All red pipestone quarried shall be used by the Indians for the purpose of making pipes or other articles or trinkets associated with Indian folklore and legend. No unworked stone shall be sold.

(c) Pipestone, which is uncovered and exposed to the air, shall be removed and worked, or covered in such a manner as to prevent hardening or deterioration.

(d) Quarrying shall be done by hand methods, preferably with tools characteristic of those used by the "Early American Indian."

(e) The abodes of Indians living on the Monument during quarrying or working operations shall be located on sites selected by the superintendent and such abodes shall be kept clean and sanitary.

(f) *Speed.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 20 miles per hour on all roads.

§ 7.43 Natchez Trace Parkway.

(a) *Animal-drawn vehicles.* No animal-drawn vehicles, sleds, drags, or implements which are not connected with the construction or maintenance of the Parkway shall be permitted on the main Parkway roads.

(b) *Animals.* No animal or animals which are not connected with the construction, operation, or maintenance of the Parkway shall be ridden, led, or driven upon or along the main Parkway roads.

(c) *Except ambulances and Government cars on emergency trips:*

(1) The speed of automobiles and other vehicles, on parkway motor roads, is limited to 50 miles per hour, except on those sections of the parkway motor roads where a lesser speed is indicated by posted signs or markers.

(2) The speed of automobiles and other vehicles on roads in the utility and residential areas shall not exceed 20 miles per hour.

§ 7.44 Mount McKinley National Park, Alaska.

(a) *Registration of prospectors and miners.* Before entering the Park for the purpose of prospecting or locating any mining claim under the public land mining laws on lands therein, or prior to engaging in exploration or mining on any mining claim theretofore located, all prospectors and miners shall register with the Superintendent, furnishing the information required on the registration form hereinafter set forth.

(1) *Registration form.* The aforesaid registration form shall be substantially as follows:

Form No. _____
(_____, 1949)

REGISTRATION OF PROSPECTORS AND MINERS

UNITED STATES
DEPARTMENT OF THE INTERIOR
National Park Service
Mount McKinley National Park

Pursuant to the regulations of the Secretary of the Interior (36 CFR 20.44) governing the surface use of mineral claims located within the boundaries of the Mount McKinley National Park, Alaska, and to provide for the proper registration of prospectors and miners on lands within said Park, the following information is furnished:

1. Name and address of registrant: _____

Note: If registrant is an agent, this fact should be indicated and the name and address of his principal should be furnished in addition to registrant's name and address. If registrant is in charge of a party, then only the chief of the party need register; however, the names and addresses of all members of the party must be listed herein, or on a separate sheet of paper attached hereto.

2. Is registrant a citizen of the United States? _____ If registering for a party in which he is in direct charge, is each member of the party a citizen of the United States? _____ If registrant is an agent, is the principal a citizen of the United States? _____

3. If this registration is for the purpose of prospecting for minerals prior to the location of a mining claim, state the general area to be covered. _____

4. If this registration is for the purpose of further prospecting, development, or mining on a mining claim heretofore located, describe the exact location of such claim or claims, furnishing evidence of filing. _____

5. Type of mineral to be prospected for or mined. _____

6. Equipment to be used. _____
7. Date prospecting or mining will commence _____ and expected cessation of operations and departure from the Park. _____

The foregoing registration is made this _____ day of _____, 19_____, with the understanding that it is good for one year only from the date hereof and must be renewed if activities are to be carried on within the Park after the said expiration date. A copy of this registration, duly accepted and recorded, shall be retained by the registrant at all times as evidence of his compliance with the said regulations of the Secretary of the Interior.

(Signature of registrant)

Accepted and recorded: _____

Superintendent,
Mount McKinley National Park

(b) *Surface use of mineral land locations.* (1) The surface use of mining claims shall be restricted to purposes of mineral exploration and development unless other uses of the surface are authorized, in writing, by the Regional Director.

(2) Prospectors and miners may open or construct roads or vehicle trails after first obtaining a permit therefor from the Regional Director. Applications for such permits may be made to the Superintendent. Each such application shall be accompanied by a map or sketch showing the location of the mining property to be served and the location of the proposed road or vehicle trail.

(3) Timber may be cut and removed from a mining claim or access road with the prior permission of the Superintendent, who shall designate the timber which may be cut and removed. All slash, brush, or debris resulting from the cutting of timber shall be disposed of by the prospector or miner in such manner and at such times as may be designated by the Superintendent.

(c) *Fishing, limit of catch and in possession.* The limit of catch per person per day shall be 10 fish but not to exceed 10 pounds and one fish, except that the limit of catch of lake trout (mackinaw) per person per day shall be two fish, including those hooked and released. Possession of more than one day's limit of catch by any one person at any one time is prohibited.

(d) *Special wildlife protection area.* The area within one mile of the Park road (Denali Highway) between milepost 37 and milepost 42 (Sable Pass area) is closed to photographers, hikers, and other Park visitors except as may be specifically authorized by the Superintendent. Observations and photography of wildlife and other features are permitted from the road shoulders and designated turnouts.

(e) *Speed.* Speed limits in the Park are as provided in § 1.42 of this chapter, except that the maximum speed limit for vehicles having a gross weight in excess of 10,000 pounds is 25 miles per hour, and for all other vehicles is 35 miles per hour.

(Interprets or applies sec. 2, 46 Stat. 1043; 16 U.S.C. 350a)

§ 7.45 Everglades National Park.

(a) *Commercial fishing.* (1) The regulations in this paragraph apply only to the area of Everglades National Park known as Florida Bay and described as follows: All of the park waters and keys lying easterly and northerly of a line drawn south true from East Cape Sable to the park boundary, thence following the park boundary southeasterly to the Intracoastal Waterway at a point near Jewfish Key, thence northeasterly following said Intracoastal Waterway to Jewfish Creek. Nets and traps may be used in accordance with the provisions of subparagraphs (2) to (10) of this paragraph.

(2) Gill nets shall not exceed 400 yards in length and shall have a stretched mesh of not less than 3 inches measured from knot to knot after being shrunk. Twine used in gill nets shall not be heavier than 9/20 cotton or 16/3 linen or No. 139 nylon. Only one lead

line is permitted and neither lead lines nor cork lines shall be more than one-fourth inch in diameter. No purses, pockets, trammels, or other special devices for entrapping or catching fish shall be used on gill nets. No gill net may be tarred, or contain hoops. Gill nets may be tied together and used in groups of not more than three, provided that the nearest net of any group shall be at least 1,000 yards from any other gill net.

(3) Cast nets shall be of the type thrown and hauled by hand by one person, and shall not exceed 18 feet in diameter of spread.

(4) Bally nets may have a spread of not more than 3 feet and a pocket of not more than 3 feet measured from rim to tip.

(5) Bait nets shall not be more than 100 feet in length and not more than 4 feet in depth.

(6) Bait traps shall not be more than 2 feet by 2 feet by 1 foot in size, built of $\frac{1}{4}$ inch to $\frac{1}{2}$ inch wire mesh containing not more than 2 openings $2\frac{1}{2}$ inches by 4 inches or smaller. Bait traps must be buoyed.

(7) Crab traps shall have rectangular openings not to exceed sixteen square inches in area and the longer dimension shall not exceed five inches. Crab traps shall be buoyed.

(8) No other net, seine, trap, spear, explosive, or other device for entrapping, catching, killing, or taking fish, bait, or other similar edible products of the waters may be used or be in the possession of any person within the Florida Bay section of the Everglades National Park, except hook and line, the pole or line being held in hand, and further excepting the shrimp and silver mullet nets permitted under subparagraph (9) of this paragraph.

(9) The taking of shrimp, prawn, silver mullet, or other products of the waters of the park for sale as bait is prohibited: *Provided*, That fishermen may obtain bait for their own use without permit: *Provided further*, That persons holding permits may be authorized to take shrimp, prawn, silver mullet, or other products of the waters of the park for sale as bait. Bait nets, shrimp nets, or silver mullet nets may be used by holders of permits and by fishermen obtaining bait for their own use.

(10) With the exception of the gill nets mentioned in subparagraph (2) of this paragraph, no nets may be tied together, and no net shall be used within 100 yards of another net (excepting shrimp nets or silver mullet nets).

(b) *Closed waters.* (1) The following-described areas are closed to fishing with nets or seines, except cast nets, bally nets, or shrimp nets.

(i) All inland lakes, bays, canals, rivers and other bodies of water being $\frac{1}{2}$ of a mile inland from the nearest recognizable mainland shoreline from the intersection of the northern park boundary with the Gulf of Mexico shore line southward to East Cape Sable excluding First Bay and including the area of Ponce de Leon Bay lying east of 81 degrees 08 minutes west longitude.

(ii) All inland lakes, bays, canals, rivers, and other bodies lying inland

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from the north shore of Florida Bay and Joe Bay and, in addition, the area north of a line drawn from Christian Point north of Joe Kemp Key to Shark Point and thence to Mosquito Point, including Otter Key. Entrances to such of the areas mentioned in this subparagraph as open on Florida Bay or the Gulf of Mexico will be posted with warning signs.

(2) The following-described area in the vicinity of Royal Palm Ranger Station is closed to all fishing: Township 58 south, range 37 east, sections 10 to 15, inclusive.

(3) The following described area bordering the Seven Mile Road (also known as the Humble Oil Well Road) from Tamiami Trail South, is closed to fishing: Township 54 South, range 36 east, sections 19, 30 and 31; township 55 south, range 36 east, sections 6, 7, 18, 19 and 30.

(c) *Protection of turtles.* The killing, wounding, capturing, molesting, or attempting to kill, wound, or capture any sea turtle or terrapin, or the disturbance of the nests or eggs thereof at any time is prohibited. The unauthorized possession within the park of the dead body or any part thereof, or of the eggs of any sea turtle or terrapin shall be prima facie evidence that the person or persons having such possession are guilty of violating this regulation.

(d) *Use of park roads.* The use of federally owned roads within Everglades National Park by trucks or other conveyances for hauling out of the park for commercial purposes, fish, shrimp, prawn, silver mullet, or other bait or edible products of the park waters, is prohibited except when such hauling is done by persons who own land within the park, or by their employees.

(e) *Prohibited conveyances.* No vehicle or conveyance, including conveyances commonly referred to as "glade buggies" or "airboats," designed to operate in, on, or over waters, swamps, or land areas, may be operated upon or across federally owned lands, including swamps and watered areas, unless prior authorization has been obtained from the Superintendent. This restriction shall not apply, however, to boats operated by oars, sails, or underwater propellers.

(f) *Applicability of State law.* Except as otherwise provided in this section and by § 1.4 of this chapter, all fishing in the waters of Everglades National Park shall be done in accordance with the laws of Florida and the regulations made pursuant thereto by the Game and Fresh Water Fish Commission and the State Board of Conservation.

(g) *Fishing; bait.* The placing or depositing of fish eggs, fish roe, food, or other substance in any inland lake, bay, canal, river or other body of water being $\frac{1}{2}$ of a mile inland from the nearest recognizable shoreline, for the purpose of attracting, collecting, or feeding fish, is prohibited.

(h) *Feeding of animals.* The feeding, touching, teasing or molesting of any crocodile or alligator is prohibited.

(i) *Speed.* Except where different speed limits are indicated by posted signs or markers, speed of automobiles and other vehicles, except ambulances and Government cars on emergency

trips, shall not exceed 45 miles per hour on park roadways.

(j) *Mining—(1) Scope.* The regulations in this paragraph are made, prescribed, and published to govern the exploration, development, extraction, and removal of oil, gas, or other minerals on lands acquired for Everglades National Park subject to the reservation of the oil, gas, or mineral rights therein as authorized pursuant to the act of October 10, 1949 (63 Stat. 733).

(2) *Coordination of activities.* The paramount purpose of the Government in creating national parks and acquiring lands therefor is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. The act of October 10, 1949 (63 Stat. 733), provides in part that the mineral rights reserved pursuant to that act in lands acquired for Everglades National Park shall be exercised by the owners subject to reasonable rules and regulations which the Secretary of the Interior may prescribe for the protection of the Park; and further provides that all operations in the exercise of such rights shall be carried on under such regulations as the Secretary may prescribe to protect the lands and areas for park purposes. Accordingly, all parties in interest under mineral reservations are required to conform to, and be governed by, the regulations in this paragraph pertaining to mineral operations and to all other regulations applicable to Everglades National Park: *Provided*, That such regulations shall not prevent the parties in interest from exercising their right to explore for, develop, extract, and remove the oil, gas, and other minerals from the Park area in accordance with sound conservation practices.

(3) *Operator.* As used in this paragraph, an operator shall mean anyone having the right (whether as owner of a reserved mineral interest, lessee, holder of operating rights, or otherwise) to prospect or explore for, develop, produce, or remove oil, gas, or other minerals under a mineral reservation pursuant to the act of October 10, 1949 (63 Stat. 733).

(4) *Registration.* Before entering the Park for the purpose of conducting any operations under a reserved mineral interest, the operator shall register with the Superintendent. Such registration shall show the operator's name and address, the name and address of operator's local agent in charge of operations, the approximate location where operations are to be conducted, a brief description of the proposed operations and of the type of equipment to be used, and reference or citation to the lease, operating agreement or other instrument upon which the operator's right to conduct operations is based.

(5) *Surface use restrictions.* The surface use of land within the Park shall be restricted to purposes of mineral exploration, development, and production. The operator shall take such reasonable steps as may be needed to prevent operations from unnecessarily causing or contributing to damage to

any forage or timber growth or pollution of the waters of the Park; and, to the extent not inconsistent with the terms of the reserved mineral interest, shall conduct operations in such manner as to safeguard and protect the wildlife, scenic features, and recreational values and improvements. The operator shall secure approval of the Superintendent as to the location and purpose of any surface structures or buildings to be erected. The operator shall take such reasonable steps as may be needed to prevent and suppress forest, brush, or grass fires. Upon termination of operations, or at any time prior thereto as required by the Superintendent as to unneeded facilities, the operator shall fill any sump holes, ditches, and other excavations, remove structures and debris or cover same so as to restore the surface of the land to its former condition in a manner satisfactory to the Superintendent. The right to explore for or extract gas, oil, or other minerals from lands upon which there are mineral reservations shall be exercised in such manner that surface operations therefor will at no time come within 500 feet of any structure, road, or facility used for park purposes.

(6) *Access ways.* Access ways by water, or for roads, vehicle trails, or pipelines, shall be over routes approved by the Superintendent and subject to such reasonable restrictions as may be imposed by the Superintendent for protection of the Park. Each application for an access way shall be accompanied by a map showing the location of the property to be served and the location of the proposed water route, road, vehicle trail, or pipeline.

(k) *Unattended property.* No person shall leave unattended for more than 30 days any boat, airboat, houseboat, barge, or other floating property, or fish net, bait trap, crab trap, or other device used in catching products of the sea.

(l) *Reckless operation of boats.* The operation of any boat on waters of Everglades National Park in a careless or heedless manner, in willful or wanton disregard of the rights or safety of others, or without due caution and at speed or in a manner so as to endanger or be likely to endanger any person or property is prohibited.

(m) *Lessee under a mining lease.* A lessee under a mining lease which was granted by the State of Florida prior to the enactment of the act of October 10, 1949 (63 Stat. 733), and which is still in force, being an operator having the right to prospect or explore for, develop, produce, or remove oil, gas, or other minerals, shall comply with the regulations contained in paragraph (j) (4), (5), and (6) of this section.

§ 7.46 Katmai National Monument.

(a) *Fishing—(1) Limit of catch and in possession.* The limit of catch per person per day shall not exceed two red salmon, and 10 fish or ten pounds and one fish of any other species. Pos-

session of more than one day's limit of fish by any one person at any one time is prohibited.

(2) *Restrictions on use of bait and lures.* Fishing is permitted only with artificial lures. Each such artificial lure may consist of not more than two flies or not more than one plug, spoon, or spinner, to which may be attached not more than one treble hook; except that in Brooks River, other than in the area from the mouth of the river to a point approximately 880 feet upstream (as designated by National Park Service posted signs), the lures shall be restricted to not more than two flies. In said posted area, from the mouth of the river to a point approximately 880 feet upstream, plugs, spoons, and spinners with not more than one barbless treble hook and not more than one attractor blade may be used.

(3) *Closed waters.* Fishing is prohibited within 100 yards above and within 100 yards below the weir in Brooks River. Fishing from the fish ladder over Brooks Falls is also prohibited.

(4) *Natives.* Notwithstanding the above restrictions, native Aleuts and Eskimos residing in the region may take fish for personal use as food from August 20 to the end of each year.

§ 7.47 Carlsbad Caverns National Park.

(a) *Cave entry.* No person or persons may enter any undeveloped cave or cavern within Carlsbad Caverns National Park without prior approval in writing by the Superintendent.

(b) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42 are as follows:

(1) The maximum speed of all vehicles on Walnut Canyon Entrance Road, also designated as New Mexico Highway No. 7, from the boundary line to the bottom of the Big Hill, four and one-half miles (4.5), is limited to 35 miles per hour as posted.

(2) From the point four and one-half miles (4.5) from the boundary line of the above road (1) to the parking areas, 30 miles per hour, as posted.

§ 7.48 Lake Mead National Recreation Area.

(a) *Speed.* The maximum speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, shall not exceed the following prescribed limits:

(1) In the immediate vicinity of camp grounds, picnic areas, swimming beaches, boat landings, and congested areas, where the roads are so posted, 20 miles per hour.

(2) On all other roads maintained for recreational area purposes, 50 miles per hour, except as dangerous sections may be posted to provide a lower limit.

(3) The regulations in this section shall not apply to highways designated as U. S. 93-466, east of Hoover Dam and that portion of the same route west of Boulder City, nor to Arizona State Highway 68 east of Davis Dam in Arizona, nor to Nevada State Highway 77 west of Davis Dam in Nevada.

(b) *Fishing.* Fishing from or within 200 feet of any public boat dock or any

public raft or float designated for water sports is prohibited.

§ 7.49 Oregon Caves National Monument.

(a) *Admission to caves.* No person or persons shall be permitted to enter Oregon Caves unless accompanied by a guide. Children under the age of six will not be permitted to enter the caves. Competent guide service and a nursery for children too young to make the trip are provided by the Park Concessioner for which fees are charged in accordance with the schedule of rates approved by the Secretary of the Interior.

§ 7.50 Theodore Roosevelt National Memorial Park.

(a) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42(b) of this chapter are as follows:

(1) 15 miles per hour:
(i) In public campgrounds including approach and exit roads to campgrounds so posted.

(ii) Headquarters areas including approach and exit roads so posted.

(2) 25 miles per hour:
(i) On the Burning Coal Vein Road.
(3) 35 miles per hour:

(i) On all other public roads in the Park, except that vehicles shall be operated at safe driving speeds as provided in § 1.42(a) of this chapter.

§ 7.51 Vicksburg National Military Park.

(a) *Speed.* Except where different speed limits are indicated by posted signs or markers, speed of automobiles and other vehicles except ambulances and Government cars on emergency trips, shall not exceed 30 miles per hour on park roadways.

§ 7.52 Devil's Tower National Monument.

(a) *Speed.* The maximum speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 35 miles per hour, except where different speed limits are indicated.

§ 7.53 Scotts Bluff National Monument.

(a) *Speed.* Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, shall not exceed 25 miles per hour on any of the Monument roads unless different speed limits are indicated by posted signs or markers.

§ 7.54 Colorado National Monument.

(a) *Speed.* Speed of automobiles and other vehicles in the Monument, except in emergencies as provided in § 1.42(b) of this chapter, is limited to 35 miles per hour.

§ 7.55 Acadia National Park.

(a) *Limitations on speed.* The speed of automobiles and other vehicles, except ambulances and government vehicles on emergency trips, is limited to 35 miles per hour.

(b) *Boats.* Boats shall not be launched or beached in designated swimming areas except to effect rescue. The provisions of this section shall not apply to boats operated for official use by any Federal or State agency.

§ 7.56 Petersburg National Military Park.

(a) *Speed.* Speed limits in the Park, except in emergencies as provided in § 1.42(b) of this chapter, are as follows:

(1) 35 miles per hour:
(i) On the Flank, Defense, and Siege Roads, except that vehicles shall be operated at safe driving speeds as provided in § 1.42(a) of this chapter.

(2) 25 miles per hour:
(i) On the Prince George Courthouse Road and Attack Road.

(ii) On the Loop Road in the Battery 5 area.

(iii) Except that vehicles shall be operated at safe driving speeds as provided in § 1.42(a) of this chapter.

§ 7.58 Cape Hatteras National Seashore Recreational Area; hunting.

(a) *Hunting.* (1) Lands within the Seashore on which hunting is legally permitted are designated as follows:

(i) Ocracoke Island, except Ocracoke village.

(ii) Hatteras Island, 500 acres, in three disconnected strips 250 feet wide measuring eastward from mean high water mark on Pamlico Sound between villages of Salvo and Avon and Buxton, and between Frisco and Hatteras.

(iii) Bodie Island, 1,500 acres, between high water mark of Roanoke Sound and a line 2,000 feet west of and parallel to U. S. Highway 158, and from the north dike of the Goosewing Club property on the north to the north boundary of the Dare County tract on the south.

(2) Seashore lands on which hunting is not permitted will be posted accordingly.

(3) This hunting plan will be administered and enforced by the National Park Service, through the Service's authorized local representative, the Superintendent of the Seashore, hereinafter referred to as the Superintendent.

(4) The State of North Carolina will assist in the enforcement of applicable State and Federal hunting laws and otherwise in carrying out this plan.

(5) Hunting will be restricted to waterfowl, and more specifically to Canada geese, ducks and coot.

(6) Hunting privileges will be free for all hunters possessing a North Carolina State hunting license and Federal migratory bird hunting stamp.

(7) Permanent blinds will be constructed exclusively by the Seashore and these will be built only on Bodie Island. Setting up and use of temporary or portable blinds by hunters will be permitted on Hatteras and Ocracoke Islands.

(8) Minimum distance between blinds on Seashore land and ponds within the designated hunting areas will be 300 yards unless other conditions, such as natural screening, justify a shorter distance.

(9) Hunting on Ocracoke Island will be permitted and managed in the same manner as Hatteras Island.

(10) "Jump shooting" of waterfowl will be permitted only on Hatteras and Ocracoke Islands and is prohibited within 300 yards of any blind.

(11) Properly licensed and authorized guides may provide hunting guide serv-

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ice within the designated hunting areas in the Seashore. They will not be permitted to solicit business within the boundaries of the Seashore and all arrangements with hunters must be made outside of those boundaries. Guides will be required to possess a North Carolina State guide license and to fulfill all requirements and conditions imposed by that license. Fees charged by guides must be approved in advance by the Superintendent. Each guide must also possess a permit issued by the Superintendent which authorizes him to guide hunters within the Seashore and the amount of the fees which he may charge.

(12) Guides shall have no permanent or seasonal blind rights within the Seashore and no special privileges other than those specified in this section.

(13) At 5:00 a.m. each morning the day of hunting a drawing for blind assignments will be conducted at the check-out station. Advance reservations for permission to draw will be accepted through the United States mail only. Reservations postmarked prior to 12:01 a.m. of September 25 will not be accepted. The postmark date and hour will establish and govern the priority of drawing. Maximum reservation by any person shall be three (3) consecutive days in any week, Monday through Saturday, and limited to a total of six (6) days during the season. Reservations shall have priority over nonreservations at drawing time. In the event a reservation is to be canceled, the Superintendent shall be informed by the party prior to drawing time for the date or dates of the reservation.

(14) The first departure from a blind by a person terminates his hunting privilege within Bodie Island for that day and the blinds may be reassigned by the Superintendent, Cape Hatteras National Seashore Recreational Area, or his duly authorized representative, for use by others later the same day. Vacating parties must check out and furnish information regarding their take at the checking station on Bodie Island located near the north boundary of the hunting area.

(15) Hunters and guides shall provide their own decoys and are required to leave the blind which they used in a clean, sanitary and undamaged condition.

(16) All hunters taking banded fowl shall turn in the bands at the check-out station.

(17) Details of this plan, interpretations and further information regarding it will be published in local newspapers and issued in circular form free to all interested persons.

(18) Access to blinds will be by designated foot trails. Vehicles will not be permitted to drive to the blind sites.

(19) Trained dogs will be permitted for retrieving providing they are kept under restraint by the hunter.

(20) Blinds will be limited to two persons without a guide and three including the guide. Only two guns will be permitted in each blind.

(21) All other regulations will be in accordance with the North Carolina State and Federal migratory bird hunting laws.

(b) *Speed.* Speed limits in Cape Hatteras National Seashore Recreational Area, except in emergencies as provided in § 1.42 (b) of this chapter, are as follows:

(1) 55 miles per hour:

(i) On the entrance road from U.S. Routes 64 and 264, at Whalebone Junction, south for a distance of 5.5 miles to North Carolina State Highway (unnumbered).

(2) 35 miles per hour:

(i) Bodie Island Lighthouse Road.

(ii) Cape Hatteras Lighthouse Road including Loop Road.

(3) 20 miles per hour:

(i) Coquina Beach Road.

§ 7.59 Wind Cave National Park.

(a) *Speed.* Speed of automobiles and other vehicles, except in emergencies as provided in § 1.42(b) of this chapter, is limited to 25 miles per hour on Highways U.S. 385 and S.D. 87 from a point 0.4 of a mile north of the Visitor Center to a point 0.4 of a mile south of the Visitor Center.

PART 8—LABOR STANDARDS APPLICABLE TO EMPLOYEES OF NATIONAL PARK SERVICE CONCESSIONERS

Sec.

- 8.1 Definitions.
- 8.2 Basis and purpose.
- 8.3 Applicability.
- 8.4 Child labor.
- 8.5 Wages and overtime compensation.
- 8.6 State labor laws.
- 8.7 Access or investigators.
- 8.8 Complaints.
- 8.9 Record keeping.
- 8.10 Filing of labor agreements.
- 8.11 Posting of regulations.

AUTHORITY: §§ 8.1 to 8.11 issued under sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3. Interpret or apply sec. 3, 26 Stat. 843, as amended; 16 U. S. C. 363.

§ 8.1 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of the Interior, the Under Secretary, an Assistant Secretary, or such other officer or employee of the Department of the Interior as the Secretary may designate.

(b) "Director" means the Director of the National Park Service.

(c) "Superintendent" includes a custodian, caretaker, manager, or other person in charge of a national park.

(d) "National park" includes a national monument or other area under the administrative jurisdiction of the National Park Service of the Department of the Interior.

(e) "Concessioner" includes any individual, partnership, corporation, or other business entity engaged in operating facilities within or without a national park for the accommodation of visitors to the park under a contract with or permit from the Secretary or the Director.

(f) "Employee" includes any individual employed by a concessioner in connection with operations covered by a contract with or permit from the Secretary or the Director.

(g) "Executive or department head" includes any employee whose primary duty is the management of the business

of the concessioner, or a customarily recognized department thereof, and who customarily and regularly directs the work of other employees with authority to employ and discharge other employees, or whose suggestions and recommendations as to the employment, discharge, advancement, or promotion of such employees will be given particular weight by the concessioner, and who customarily and regularly exercises discretionary powers.

(h) "State" means any State, Territory, possession, or the District of Columbia.

§ 8.2 Basis and purpose.

The public using the national parks is better served when the employees of the concessioners enjoy the benefits of fair labor standards and when, in this respect, they are treated at least as well as those employed in similar occupations outside such areas, but within the same State. This principle is the basis of the regulations in this part and their purpose is its implementation.

§ 8.3 Applicability.

This part shall not apply to:

(a) Concessioners providing and operating medical services.

(b) Personal servants.

(c) Employees engaged in agricultural activities, including the care, handling, and feeding of livestock.

(d) Detectives, watchmen, guards, and caretakers.

(e) Bona fide executives or department heads.

(f) Solicitors or outside salesmen whose compensation is chiefly on a commission basis.

(g) Professional sports instructors and entertainers.

(h) The following employees, when approved by the Director: Employees for whom relief is clearly impracticable because of peculiar conditions arising from the fact that operations are carried on in areas having no resident population or are located at long distances from a supply of available labor; employees whose employment requires special or technical training or skill, where no person capable of providing relief is available within a reasonable distance; employees in small units accessible only by trail or remote from centers of activity, or operating on a small volume of business primarily for the convenience of the public.

§ 8.4 Child labor.

No person under 16 years of age may be employed by a concessioner in any occupation. No person under 18 years of age may be employed for more than 8 hours a day, 6 days a week or between the hours of 10 p. m. and 6 a. m. No person under 18 years of age may be employed in any occupation in which the employment of such a minor is prohibited by the laws of the United States or of the State in which he is employed, even though, but for the provisions of this section, compliance with such laws would not be compulsory. For the purpose of proving age under this regulation a State employment or age certificate or the corresponding Federal

certificate of age shall be accepted as conclusive proof of the minor's age.

§ 8.5 Wages and overtime compensation.

(a) No employee shall be paid less than 40 cents an hour.

(b) (1) On and after May 1, 1950, no less than one and one-half times the regular rate of pay at which the employee is employed shall be paid for all hours worked in excess of 48 per week.

(2) This paragraph shall not, however, apply to employees of motor bus carriers with respect to whom the Interstate Commerce Commission has established maximum hours regulations pursuant to section 204 of the Interstate Commerce Act, as amended (49 U. S. C. 304).

(c) Charges for board and lodging furnished by a concessioner to his employees may not exceed the reasonable cost thereof, or the maximum allowed by or pursuant to the law of the State of employment, whichever is lower. Charges may not be made for tools, equipment, uniforms, or other articles or services primarily provided for the benefit of the concessioner.

§ 8.6 State labor laws.

Concessioners shall comply with the standards established, from time to time, by or pursuant to the labor laws of the State of employment, such as those concerning minimum wages, child labor, hours of work, and safety, which would apply to the employees of the concessioner if his establishment were not located in a national park. If the standards so established are lower than those established by §§ 8.4 and 8.5 concessioners shall comply with the latter sections.

§ 8.7 Access for investigators.

Concessioners shall permit representatives of this Department and, when appropriate and authorized representatives of other Federal or State agencies, access to any of their places of employment for the purpose of examining pay rolls and other records and otherwise to ascertain the facts with respect to compliance with the regulations in this part and State labor laws. The report of any investigation concerning a violation of the regulations in this part shall be submitted to the superintendent of the national park involved.

§ 8.8 Complaints.

Any question pertaining to the interpretation or application of or compliance with this part which cannot be satisfactorily settled between a concessioner and his employee, employees, or employee representative may be referred to the Director for review by either one or both of the parties concerned. Any party adversely affected by the decision of the Director may request the Secretary to consider the issues involved. The Secretary shall thereupon take such action as he deems appropriate.

§ 8.9 Record keeping.

Concessioners shall for a period of 3 years keep records of the name, age, address, and occupation of each of their employees, the rate of pay and the

amount paid to each employee each pay day, the hours worked each day and each work week by each employee and such other information concerning employees as the Director may require.

§ 8.10 Filing of labor agreements.

Within 60 days after the effective date of the regulations in this part (January 1, 1949), concessioners shall file with the Director of the National Park Service a copy of each labor agreement in effect on the effective date of the regulations in this part, covering rates of pay, hours of work, and conditions of employment duly negotiated with their employees as a whole or by class, craft, or other appropriate unit. Thereafter, on July 1 of each year concessioners shall file copies of all such agreements then in effect with the Director of the National Park Service.

§ 8.11 Posting of regulations.

Concessioners shall post in a conspicuous place easily accessible to all employees copies of the regulations in this part in such form as the Director may approve.

PART 9—PROCEDURE AND BUSINESS OF THE NATIONAL PARK TRUST FUND BOARD

Sec.

9.1 Definition.

9.2 Officers.

9.3 Meetings; duties of officers.

9.4 Donations.

9.5 Acceptance of donations.

AUTHORITY: §§ 9.1 to 9.5 issued under sec. 1, 49 Stat. 477; 16 U.S.C. 19.

§ 9.1 Definition.

As used in the regulations in this part, the term "Board" means the National Park Trust Fund Board.

§ 9.2 Officers.

The Secretary of the Interior shall be the Chairman of the Board, and the Director of the National Park Service shall be the Secretary.

§ 9.3 Meetings; duties of officers.

(a) The Chairman may call meetings of the Board at such times and places as he may determine upon due notice to all members. The Chairman shall preside at the meetings, and in the temporary absence or disability of the Chairman the members present shall select a temporary Chairman to act in his stead.

(b) The Secretary shall keep a complete and accurate record of all meetings of the Board, and shall be the custodian of the records of the Board and of its seal. It shall be the duty of the Secretary to attest under the seal of the Board all certified copies of the official records of the Board that may be required. The Secretary shall prepare and submit to the Congress on behalf of the Board an annual report of the moneys or securities received and held by the Board and of its activities.

§ 9.4 Donations.

Trust funds in the form of money, securities, or other personal property may be given or bequeathed to the Board in form substantially as follows: "To the

National Park Trust Fund Board, to be expendable, principal and interest, for the benefit of, or in connection with, the National Park Service, its activities, or its services, as may be approved by the Board." The donor may specify a particular purpose or purposes for which the gift or bequest is made: *Provided, however,* That the Board may reject any gift or bequest which entails any terms or conditions unacceptable to the Board.

§ 9.5 Acceptance of donations.

(a) Gifts or bequests may be accepted on behalf of the Board upon the written approval of three of its members.

(b) The Director of the National Park Service may, as a member and Secretary of the Board, accept on behalf of the Board any gift or bequest which does not specify any particular purpose or purposes and shall notify the Board of his action.

(c) Upon the acceptance of any gift or bequest, it shall be the duty of the Secretary to record the same in the records of the Board, showing the nature and amount thereof, and the name of the donor. The Secretary shall advise the donor or his representative of the Board's acceptance of the gift or bequest.

PART 10—DISPOSAL OF CERTAIN WILD ANIMALS

Sec.

10.1 Animals available.

10.2 Charges.

10.3 Application; requirements.

10.4 Shipment.

AUTHORITY: §§ 10.1 to 10.4 issued under sec. 3, 39 Stat. 535, as amended; 16 U.S.C. 3. Interpret or apply 42 Stat. 1214, 45 Stat. 1644, 52 Stat. 708; 16 U.S.C. 36, 36a, 141c.

§ 10.1 Animals available.

From time to time there are surplus live elk, buffaloes and bears in Yellowstone National Park, and live buffaloes in Wind Cave National Park which the Secretary may, in his discretion, dispose of to Federal, State, county and municipal authorities for preserves, zoos, zoological gardens, and parks. When surplus live elk and buffaloes are available from these national parks, the Secretary may, in his discretion, dispose of these to individuals and private institutions.

§ 10.2 Charges.

No charge will be made for the animals, but the receiver will be required to make a deposit with the appropriate superintendent to defray the expense of capturing, crating, and transporting them to the point of shipment. The receiver may also be required to pay for the services of a veterinarian for testing, vaccinating, and treating the animals at the park for communicable diseases and parasites. Estimates of such expenses will be furnished by the appropriate superintendent upon request.

§ 10.3 Application; requirements.

(a) Applications for animals should be directed to the appropriate superintendent, stating the kind, number, age, and sex of animals desired. The post office address for Yellowstone National Park is Yellowstone Park, Wyoming, and

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for Wind Cave National Park is Hot Springs, South Dakota.

(b) Applicants desiring animals which are to be held in enclosures must show that they have suitable facilities for the care of the animals. Operators of game farms or private preserves must submit evidence of their authority to engage in such operations.

(c) When any animals are desired for liberation on private lands, the application must be accompanied by the written concurrence of the State agency having jurisdiction over wildlife. When any animals are desired for liberation on lands in the vicinity of lands owned or controlled by the Federal Government, the application must be accompanied by the written concurrence of the agency or agencies having jurisdiction over the Federally owned or controlled lands.

(d) Applications will not be granted when the animals are to be slaughtered, or are to be released without adequate protection from premature hunting.

§ 10.4 Shipment.

(a) Elk, buffaloes, and bears may be obtained at the Park and be removed by truck. Elk and buffaloes, when not transported by truck, must be crated individually for rail shipment in less than carload lots. Bears must be crated individually regardless of the number furnished or the character of the conveyance.

(b) The receiver must furnish shipping crates constructed in accordance with National Park Service specifications.

PART 20—ISLE ROYALE NATIONAL PARK; COMMERCIAL FISHING

Sec.

- 20.1 Definitions.
- 20.2 Permits; conditions.
- 20.3 Maximum number of permittees.
- 20.4 Revocation of permits; appeal.

AUTHORITY: §§ 20.1 to 20.4 issued under sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3. Interpret or apply sec. 3, 56 Stat. 133; 16 U. S. C. 408k.

§ 20.1 Definitions.

As used in this part:

- (a) "Secretary" means the Secretary of the Interior.
- (b) "Director" means the Director of the National Park Service.
- (c) "Regional Director" means the Regional Director, Region Two, of the National Park Service.
- (d) "Park" means Isle Royale National Park.
- (e) "Permittee" includes all persons engaged in commercial fishing from bases in the Park, except those life lessees who were engaged in such occupation at the date of the issuance of their leases.

§ 20.2 Permits; conditions.

Annual, revocable special use permits authorizing the use of Government-owned structures and facilities in the Park as bases for commercial fishing in the waters contiguous to the Park may be granted by the Director of the National Park Service, or the Regional Director if authorized by the Director,

to bona fide commercial fishermen, where such structures and facilities were used for this purpose during the period from April 1, 1937, to December 31, 1939, inclusive, subject to the following conditions.

(a) Permittees will be required to pay an annual fee as set forth in Part 6 of this chapter.

(b) Permittees shall personally reside at their Park bases during the fishing season.

(c) Permittees shall secure and possess at all times such commercial fishing license as may be required by the State of Michigan.

(d) Permittees shall comply with all Michigan laws, and related regulations prescribed by the Michigan Department of Conservation, governing commercial fishing in the waters contiguous to the Park.

(e) Permittees shall use the bases covered by the permit for commercial fishing only. No permittee shall furnish boat or guide service to the public unless expressly authorized to do so by the Secretary or the Director.

(f) Permittees shall maintain at their own expense, in accordance with reasonable standards of repair, safety, and sanitation, all Government-owned structures and facilities embraced in the permits.

(g) The size, type and location of nets and gear and the number of men engaged in the operation of the fishing base of the permittee shall be prescribed in the permit. Only nets and gear approved by the Michigan Department of Conservation shall be used.

§ 20.3 Maximum number of permittees.

Commercial fishermen to whom the annual revocable permits may be granted shall not exceed the maximum number of persons conducting commercial fishing operations from bases in the area comprising the Park at any one time during the period from April 1, 1937 to December 31, 1939, inclusive.

§ 20.4 Revocation of permits; appeal.

The Director may, by notification in writing, revoke the permit of any permittee found by him to have violated any Federal statute, or the provisions of these or any other regulations of the Secretary, relating to the Park. A permittee, however, shall have the right to appeal to the Secretary from a decision of the Director revoking his permit, but such appeal shall not be entitled to review unless it is received by the Secretary within the period of 20 days following the date the Director's notification, together with a copy of the regulations in this part, is served upon the permitted by the Superintendent of the Park, or his duly authorized agent.

PART 21—HOT SPRINGS NATIONAL PARK; BATHHOUSE REGULATIONS

Sec.

- 21.1 Definitions.
- 21.2 Use and waste of water.
- 21.3 Transfers of stock or interest in bathhouses.
- 21.4 Federal Registration Board, officers.
- 21.5 Quorum.
- 21.6 Meetings.

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| 21.7 | Minutes. |
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| 21.9 | Fees. |
| 21.10 | Registration of physicians. |
| 21.11 | Removal from register. |
| 21.12 | Removal from register; appeal. |
| 21.13 | Applicants. |
| 21.14 | Conduct of registered physicians. |
| 21.15 | Examining Board for Technicians. |
| 21.16 | Suspension of certificate. |
| 21.17 | Hours of operation. |
| 21.18 | Requirements for bathing. |
| 21.19 | Changes in bathing directions; standard bath directions. |
| 21.20 | Supervision of treatments. |
| 21.21 | Use of pools. |
| 21.22 | Persons excluded from the pools. |
| 21.23 | Transfer and redemption of tickets. |
| 21.24 | Lost tickets. |
| 21.25 | Physical examinations. |
| 21.26 | Solicitation by employees. |
| 21.27 | Prescriptions and use of medical instruments. |
| 21.28 | Fees. |
| 21.29 | Badges for bath attendants. |
| 21.30 | Accidents. |
| 21.31 | Losses. |

AUTHORITY: §§ 21.1 to 21.31 issued under sec. 3, 39 Stat. 535, as amended; 16 U.S.C. 3. Interpret or apply 20 Stat. 258, as amended, sec. 3, 26 Stat. 843, as amended, sec. 1, 41 Stat. 918, as amended; 16 U.S.C. 361, 363, 369.

§ 21.1 Definitions.

When used in the regulations in this part:

(a) The term "Secretary" means the Secretary of the Interior or his duly authorized representative.

(b) The term "Director" means the Director of the National Park Service and the Regional Director, Region Three.

(c) The term "Superintendent" means the Superintendent of Hot Springs National Park, Arkansas.

(d) The term "concessioner" means any individual, trustee, partnership, corporation, or other business entity operating a bathhouse receiving water from Hot Springs National Park under lease or contract authorization by the Secretary.

(e) The term "physician" means a physician or surgeon, or any person publicly professing to cure or heal.

(f) The term "registered physician" means a physician registered at the office of the Superintendent as authorized to prescribe the waters of Hot Springs National Park.

(g) The term "technician" means any person certified and licensed by the Superintendent to perform special duties pertaining to services rendered in the bathhouses.

(h) The term "employee" means any employee of a bathhouse concessioner whose duties include any part of the operation of a bathhouse or rendering bathing or special services to the public, and includes technicians.

§ 21.2 Use and waste of water.

(a) The use of hot mineral waters of Hot Springs National Park for other than bathing or other therapeutic purposes is prohibited.

(b) The wasting of the hot mineral waters of Hot Springs National Park is prohibited.

(c) The heating, reheating, or otherwise increasing the temperature of the hot mineral waters of Hot Springs National Park is prohibited.

(d) The introduction of any substance, chemical, or other material or solution into the hot mineral waters of Hot Springs National Park, except as may be directed by a registered physician, is prohibited.

§ 21.3 Transfers of stock or interest in bathhouses.

All proposed transfers of stock in bathhouses receiving hot water from Hot Springs National Park must receive approval, in writing of the Director, before the transfer is consummated. Transfers of stock or interest in bathhouses will not be valid unless approved in this manner.

§ 21.4 Federal Registration Board, officers.

(a) An advisory and examining board, designated as "The Hot Springs National Park Federal Registration Board," shall be appointed by the Secretary. The board shall consist of six members, five of whom shall be members of the Garland County Hot Springs Medical Society, and one the Superintendent of Hot Springs National Park. The Superintendent shall act as secretary of the board. The functions of the board shall be to advise the Superintendent concerning the use of the waters of Hot Springs National Park and to examine and approve, in proper cases, applicants for registration.

(b) There shall be a president elected by the board, who shall serve one year and until his successor is elected and qualified. Such election shall be at the annual meeting, which shall be the first meeting of the board after the personnel thereof for the ensuing year has been determined by the Secretary of the Interior. Should a vacancy occur in the office of the president by death, resignation, or otherwise, such vacancy shall be filled by the board at its first regular meeting next succeeding the date the vacancy occurs, or at a special meeting of the board called for that purpose.

§ 21.5 Quorum.

Three members of the board shall constitute a quorum, with full authority to transact any and all business that may come before the board.

§ 21.6 Meetings.

(a) Regular bimonthly meetings shall be established by the board and special meetings may be held as the president of the board deems necessary, prior notice thereof having been duly announced: *Provided, however, That the president may waive regular meetings when no appropriate business exists for consideration by the board.*

(b) All routine business shall be filed with the secretary of the board at least 24 hours before the designated meeting time. Matters for consideration not filed as indicated above for the meeting will be held for consideration at the next regular or special meeting.

(c) The order for the transaction of business before the board shall be as follows:

(1) Reading and approval of the minutes of the preceding meeting.

(2) Consideration of unfinished business.

- (3) Consideration of new business.
- (4) Consideration of applicants for registration.
- (5) Miscellaneous business.

§ 21.7 Minutes.

Minutes of all business transacted by the board shall be reduced to writing and be copied in a record provided for the purpose, and at the next regular or special meeting, the minutes of the previous meeting shall be read and approved, with such corrections, if any, as the board may consider proper to make.

§ 21.8 Examinations.

Examinations of applicants for registration shall be held quarterly on a date to be fixed by the board. Any registered physician hereafter dropped from the list of registered physicians will not be restored until after he successfully passes the regular examination prescribed by the board for original registration, nor shall any such physician be eligible for examination for a period of five years from the date on which his name was dropped from the registered list: *Provided, That the Secretary of the Interior may, in his discretion, authorize the examination of such physician at any time after one year from said date.*

§ 21.9 Fees.

Applicants for examination, preliminary to registration, will be required to pay the sum of \$10 to the Superintendent as an examination fee prior to admittance to examination. Persons having complied with the requirements for registration will be required to pay the sum of \$15 to the Superintendent as a registration fee prior to their names being placed on the list of registered physicians. The fees prescribed by this section are payable in advance in the form of postal money order or certified or cashier's check in net amount of the fee, drawn to the order of the Treasurer of the United States, or in legal tender, and are not subject to refund, either in whole or in part.

§ 21.10 Registration of physicians.

Physicians desiring to prescribe the waters of the hot springs, either internally or through the medium of baths, must first be registered at the office of the Superintendent, and shall use only such uniform form of bathing directions as meets with the approval of the Superintendent. Registration will be accorded only to such physicians as are found to have proper professional qualifications and character. No physician who shall be convicted of any offense involving moral turpitude against the laws of the United States or any State, or who shall violate any regulation of the Arkansas State Board of Health, or who shall engage in unprofessional, disreputable, or dishonest conduct, or who is addicted to the drug or other habit which disqualifies him for the performance of his professional duties, shall be or remain registered.

§ 21.11 Removal from register.

If a charge is made to the Superintendent in writing, under oath, supported by the affidavits of two or more reputable witnesses, that a registered physician has violated any of the laws or regula-

tions pertaining to the government of the bathhouses receiving hot water from said Park, such registered physician shall be immediately notified by the Superintendent of the fact that affidavits have been made against him and, in the presence of the Superintendent, be accorded an opportunity to cross-examine the witnesses on the subject thereof; and if in the judgment of the Superintendent the facts warrant such action, he will cite such registered physician to appear before him on a day to be named within not exceeding 5 days from the date of notice to show cause why his name should not be stricken from the register of physicians authorized to prescribe the waters of said springs; and pending the investigation and final action upon the charges, the right of such registered physician to prescribe the hot waters may be suspended by the Secretary of the Interior. The registered physician, against whom such complaint is made, shall have the right to cross-examine said afflants and any witnesses who may appear before the Superintendent, or to file written interrogatories pertinent to the issue, addressed to such complainants or witnesses, to be answered by them under oath, and may submit within 5 days thereafter counter-affidavits in answer to the charges made in the affidavits of the witnesses. The complainants or witnesses may file rebuttal affidavits within 5 days after service upon them of said counter-affidavits. The hearing of said charges shall be had on the record as so made, and the recommendation of the Superintendent in the premises forwarded to the Secretary of the Interior through the Federal Registration Board, which board, after reviewing the record and the recommendation of the Superintendent, shall thereafter promptly submit its findings as a board of review, together with such supplemental recommendations as it may appear proper, to the Secretary of the Interior.

§ 21.12 Removal from register; appeal.

An appeal from the recommendation of the Superintendent upon said record may be taken to the Secretary of the Interior within 5 days from the date of service by the Superintendent of a copy of his recommendation on the accused. If upon consideration of the complaint the charge is not sustained by the Secretary, the accused will be advised at once and the charges dismissed. If, however, such charge is sustained, the name of the registered physician shall be stricken from the registered list.

§ 21.13 Applicants.

The following rules shall govern applicants for registration:

(a) To be entitled to registration, applicants must be citizens of the United States of America and be graduates of a reputable medical school or of a reputable school of osteopathy, and must have complied with the laws of the State of Arkansas relating to the admission of physicians to the practice of medicine and surgery, or either, within said State.

(b) Applicants will be required to furnish, in writing, such evidence as the board may desire, touching their personal history and moral character and standing during the 5 years next preced-

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ing the date of their applications, such evidence to be placed in the hands of the secretary of the board not later than 10 days prior to the regular date for examination of applicants. Applicants will also be required to submit to such examination as the board may consider proper, concerning their knowledge of medicine and surgery and their qualifications to prescribe the hot waters.

(c) Physicians who have successfully passed the examination of the National Board of Medical Examiners shall not be required to submit to an examination by the Federal Registration Board: *Provided*, That the board shall be assured through examination of the candidate or through evidence acceptable to the board that the candidate has a suitable knowledge and ability in the use of hydrotherapy: *And further provided*, That his moral and ethical qualifications are satisfactory upon investigation by the board.

(d) An applicant who twice fails in his examination before the Federal Registration Board shall not be permitted to again take the examination prescribed by the board until after the lapse of one year from the date of his last failure.

§ 21.14 Conduct of registered physicians.

(a) No registered physician shall be permitted to associate himself in practice looking to the prescribing of the waters of the Hot Springs with a non-registered physician, under penalty of having his name removed from the registered list. Before any assistant is employed by a registered physician, his name must be submitted to the Superintendent, together with such other information as may be called for by the Superintendent. Registered physicians must also notify the Superintendent of any contemplated absence from Hot Springs and give the name of the person in charge of his office during such absence. Registered physicians will be held strictly accountable for the actions of their assistants, and any violation of the regulations in this part by the registered physician or his assistant or assistants will be deemed sufficient cause for the removal of the name of such registered physician from the registered list. The name of any registered physician who shall give bath directions for the patient of a nonregistered physician shall be removed from the registered list, but this shall not apply to the prescribing of the waters of the Hot Springs for the patient of another practitioner who, while legally licensed by the State of Arkansas to treat ailments of the human system, is not eligible for registration under § 21.12: *Provided*, That in all such cases the registered physician so prescribing shall deal directly with the patient and shall receive no fee, commission, or other compensation, either directly or indirectly, from such other practitioner under penalty of having his name removed from the registered list: *And provided further*, That the name of such other practitioner treating such patient shall be given on the bath directions.

(b) No registered physician, upon removal of his offices from one location to another, may publish in any newspaper,

or other periodical, notice to that effect for a longer period than 3 days. Notices of return from an absence may not be published for a longer period than 3 days or for any absence of less than 10 consecutive days. Such notices shall be simple in form and free of advertising elements, such as office hours, telephone numbers, specialties, and prices for consultation.

(c) Registered physicians, occupying offices formerly occupied by physicians who have died, retired, or have been placed on the nonactive list of registered physicians, are required to have the names of such nonactive physicians removed without delay from signs, windows, and directories in the building in which such physicians formerly practiced, and upon noncompliance with this provision within 10 days may be suspended by the Secretary of the Interior until the delinquencies have been remedied.

(d) The provisions of this section shall not apply to physicians stationed at the Army and Navy General Hospital not doing outside practice.

(e) Any registered physician desiring to change his residence from Hot Springs or to retire from active practice longer than one year, and during such absence retain his registration, shall file application, in writing, with the Superintendent to be placed upon the nonresident list. If such registered physician whose name has been placed upon the nonresident list should desire to return to active practice at Hot Springs and have his name again placed upon the list of registered physicians, he may so apply in writing, stating his residence and occupation during the time he has been on the nonresident list, and shall give three references who can vouch for his conduct. The Federal Registration Board shall require an endorsement by the Garland County Hot Springs Medical Society of any registered physician whose name has been placed upon the nonresident list requesting his name to be restored to the active list of registered physicians and upon restoration such registered physician shall be governed by all the rules applying to registered physicians.

(f) The board, by action at a regular meeting, shall have the power to remove the names of registered physicians from the registered list who have ceased to practice medicine in Hot Springs National Park, Arkansas, and have departed without informing the board or the Superintendent of their intentions to be placed upon the inactive list or to have their names removed from the registered list.

(g) The provisions of this section are subject to amendment at any regular meeting of the board on the giving of 30 days' notice in writing of the proposed amendment, subject, however, to the approval of the Secretary of the Interior.

§ 21.15 Examining Board for Technicians.

(a) An Examining Board for Technicians shall be appointed by the Superintendent, subject to the approval of the Director, to consist of the following members:

(1) One registered physician, to be nominated by the Federal Registration Board.

(2) One registered physiotherapist-hydrotherapist.

(3) One registered masseur.

(4) One registered bath attendant, preferably a head attendant.

(5) One member of the Superintendent's staff, who shall also be the executive secretary of the board.

(b) The board at its first meeting shall elect a president from among its members, excluding the representative of the Superintendent's staff who shall always be ineligible for any other position than executive secretary.

(c) Three members present shall constitute a quorum. Any member undergoing disciplinary action or in suspension from duty shall not remain a member of the board.

(d) The board shall meet on the third Friday in January of each year and from time to time throughout the year, subject to the call of the president, to transact such business as shall be properly presented by the executive secretary.

(e) The board will recommend to the Superintendent any necessary replacements of personnel of the board to fill vacancies.

(f) The board shall prescribe the requirements and will conduct the written examinations for all applicants seeking to be registered physiotherapists, hydrotherapists, masseurs, and bath attendants in the bathhouses.

(g) The board shall have the power to determine the qualifications of individuals seeking to be registered as qualified beauticians and chiropodists in the bathhouses.

(h) The board shall recommend to the Superintendent the granting of certificates to applicants who shall successfully pass the written or practical examinations required of all candidates coming before it.

§ 21.16 Suspension of certificate.

The certificate of qualification of a technician discharged for cause shall be suspended by the Superintendent, and the said person shall not be employed in any capacity in any bathhouse without recertification, which may be made only after a period of six months.

§ 21.17 Hours of operation.

The hours for operation of all departments of bathhouses receiving hot water from Hot Springs National Park shall be those expressly designated by the Superintendent.

§ 21.18 Requirements for bathing.

(a) No bathhouse concessioner shall bathe (1) any applicant for baths who is under medical treatment unless said applicant presents satisfactory evidence that he or she is the patient of a registered physician, or (2) any applicant for baths not under the care of a physician unless said applicant shall make a certificate to be filed with the bathhouse concessioner that he or she is not under the care of any physician. The violation of this paragraph by the concessioner, manager, or any employee of a

bathhouse, will result in the cutting off of the water from the bathhouse or the cancelling of the contract, as the Secretary of the Interior may determine.

(b) Should any person not under the care of a physician at the commencement of baths, as permitted under paragraph (a) (2) of this section, subsequently employ, consult, or take treatment from any physician, then in such case, he or she shall immediately file with the bathhouse concessioner evidence thereof as required under paragraph (a) of this section.

§ 21.19 Changes in bathing directions; standard bath directions.

Baths shall be administered to patrons who do not have registered physicians' bathing directions in accordance with the standard bath directions prescribed by the Superintendent. Baths shall be administered to persons having registered physicians' bathing directions only in accordance with the instructions given therein.

§ 21.20 Supervision of treatments.

Treatments, manipulations, or exercises shall be given only by or under the direct supervision of a technician.

§ 21.21 Use of pools.

No person shall use the pools except on presenting a prescription describing the treatment from a registered physician. A period of two weeks must have elapsed since the subsidence of abnormal temperature in persons who have had any acute infectious disease or acute respiratory disease before they may be permitted to enter the pools. A period of one month must have elapsed since the subsidence of acute features in acute anterior poliomyelitis before the patient may be permitted to enter the pools.

§ 21.22 Persons excluded from the pools.

The following persons are excluded from and will not be given treatments in the pools:

(a) Persons with acute or infectious lesions on any part of the body, particularly of the skin, throat, or genitalia.

(b) Persons with a discharge from the eyes, nose, mouth, ears, or genitalia.

(c) Persons showing abnormal temperature or marked cough.

(d) Persons without complete control of the bladder or rectum.

§ 21.23 Transfer and redemption of tickets.

Tickets for baths and other services are not transferable by the purchaser thereof. Unused tickets may be redeemed by the purchaser within three years from the date of purchase, according to the redemption scale approved by the Secretary of the Interior.

§ 21.24 Lost tickets.

A patron who loses his ticket may continue to receive service, without additional charge, for the number of units remaining in the ticket. Records of lost tickets, and of service given thereunder, shall be maintained as required by the Superintendent. Lost tickets shall have no redemption value.

§ 21.25 Physical examinations.

No technician or other employee who comes in direct personal contact with bathers will be permitted to enter on duty without first undergoing physical examinations, or remain in such employment without undergoing periodic physical examinations, as required by the Superintendent, and being found free from any infectious or communicable diseases.

CROSS REFERENCE: For list of communicable diseases included in the regulations of the United States Public Health Service, see 42 CFR 72.2.

§ 21.26 Solicitation by employees.

Soliciting by employees for any purpose, including soliciting for gratuities, commonly called "tips," is prohibited in all bathhouses.

§ 21.27 Prescriptions and use of medical instruments.

No technician may prescribe diets or waters, make diagnoses of ailments, or use in his work a clinical thermometer, stethoscope, or any other medical instrument employed by a physician.

§ 21.28 Fees.

Technicians shall charge for their services the rates provided and approved for them by the Secretary, which fees shall be collected and accounted for to them by the bathhouse management.

§ 21.29 Badges for bath attendants.

Bath attendants, when granted certificates of qualification, shall obtain a numbered badge, to be furnished at cost by the Superintendent, which shall be worn at all times when such attendants are on duty.

§ 21.30 Accidents.

A bathhouse manager shall report, in writing, all accidents which occur in bathhouses to the office of the Superintendent. In case circumstances preclude a written report being submitted immediately, an oral report must be made immediately which must be substantiated by a written report at the earliest possible time.

§ 21.31 Losses.

A bathhouse concessioner receiving deposits of jewelry, money, or other valuables from bathers shall provide means for the safekeeping thereof, satisfactory to the Superintendent. It is understood, however, that the Government assumes no responsibility in the premises. All losses must be reported, in writing, to the Superintendent promptly by the bathhouse manager. Any losses or thefts, no matter how small, should be reported immediately in order that proper action can be taken for the benefit of the bathhouse and the public.

PART 22—GLACIER NATIONAL PARK; TIMBER DISPOSAL REGULATIONS

Sec.

22.1 Disposal of fuel wood, forest products; cutting of timber.

22.2 Deadwood operations.

22.3 Brush disposal.

Sec.

22.4 Minimum price list for poles, posts, lumber, etc., cut from dead or down timber in Glacier National Park.

22.5 Concessions.

AUTHORITY: §§ 22.1 to 22.5 issued under sec. 3, 39 Stat. 585, as amended; 16 U. S. C. 3. Interpret or apply sec. 2, 36 Stat. 354, sec. 3, 39 Stat. 1122; 16 U. S. C. 162, 187.

§ 22.1 Disposal of fuel wood, forest products; cutting of timber.

The disposal of fuel wood, poles, and other forest products in Glacier National Park by sale to individuals is permitted only where such disposal will be of benefit to the stand of timber through the reduction of existing fire hazards. In no instance will the cutting of green timber be permitted for use by the public excepting on road right-of-way clearing projects where such timber may be made available.

§ 22.2 Deadwood operations.

(a) All deadwood permits shall be issued and approved in writing through the superintendent's office prior to the initiation of any cutting activities. Application for such permits should be made to the district rangers.

(b) All wood cut shall be utilized to a 4-inch diameter unless rotten. All butt logs shall be utilized by the permittee regardless of size.

(c) Stump heights shall not exceed 12 inches on any side for trees 12 inches and over in diameter. The stump height shall not exceed the diameter of the tree for trees under 12 inches in diameter. This section applies in all instances with the exception of operations being conducted within sight of roadways, trails used by the public or fishing streams, where all stumps shall be cut even with the ground.

(d) No cutting of dead topped or other partially green trees will be permitted unless marked by the district ranger.

(e) Damage resulting to forest reproduction from deadwood operations shall be kept at a minimum. Any unnecessary damage to forest reproduction or green trees or any violation of the regulations in this part will, at the discretion of the superintendent, result in the cancellation of the permit and the forfeiture of all bonds given to guarantee the fulfillment of the contract, and all moneys theretofore paid by the permittee, as part of the purchase price or otherwise, shall be retained as liquidated damages.

(f) When products are susceptible of being classed at different prices they shall be paid for at the highest price.

(g) In every instance where trees are cut into more than one pole the butt pole shall be of the longest commercial length.

(h) When cedar trees cut for poles have butts which are not suitable for inclusion in the poles but are suitable for posts, such butt materials shall be worked into posts.

(i) All cedar timber cut for shingles shall be measured in board feet, using the Scribner "Decimal C" log rule.

(j) All sawlogs will be measured in board feet, using the Scribner "Decimal C" log rule.

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(k) All fuel wood will be measured in cords.

(l) Brush disposal will be made in accordance with the provisions of § 22.3.

(m) Forest material obtained on a free permit must not be sold. The permittee must sign a statement to the effect that such forest material will not be sold to anyone and that it will not be used for the construction of buildings or other improvements on privately owned lands in Glacier National Park.

(n) Free permits will be issued for deadwood included in designated cleanup and fire hazard reduction areas where such operations will not interfere with National Park Service activities and will not adversely affect the vegetation or protection of the area.

(o) Permittees are subject to charge, in accordance with the approved price lists at the time of issuance of permits, for all wood obtained outside designated cleanup and fire hazard reduction areas.

(p) All wood cutting permits may be suspended when weather conditions, such as heavy snows or the sudden occurrence of periods of fire danger, or other conditions or considerations, make wood cutting operations undesirable for the best interests of the Government.

(q) All permittees are subject to the rules and regulations governing the use of Glacier National Park.

§ 22.3 Brush disposal.

(a) In no case will anyone attempt to burn brush without first securing a permit in writing from the district ranger in whose district the burning is to be done.

(b) All brush resulting from cutting of dead timber in green stands will be lopped and scattered so as to lie flat on the ground unless such disposal shall, in the judgment of the park officer in charge, increase the fire hazard, in which case such brush shall be piled and burned.

(c) All brush resulting from dead timber operations in old burns shall be piled and burned with care taken to avoid injury to reproduction. In some instances, upon the approval of the Chief Ranger or his representative, the disposal of such brush may be made by lopping and scattering.

(d) The piling of brush in large piles will be avoided, where possible, unless such piles are made in large openings in the forest cover.

(e) Piles to be burned in place, unless located in large openings in the forest cover, should not exceed 6 feet in diameter nor 5 feet in height. Windrow piling and burning shall be avoided and in no instance permitted without the approval of the Park Forester.

(f) Piles which are not to be burned in place shall be placed where they are readily accessible for moving.

(g) No piling shall be done on shoulders of roads or in ditches or along banks immediately adjacent to roads.

(h) All permittees will be required to furnish men to burn the brush and clean up the area at such a time as will be designated by the National Park Service.

(i) All permittees will be held accountable for their acts or the acts of their

agents where regulations are disregarded.

(j) Permits issued for either green timber or deadwood products on road right-of-way clearing shall not be subject to brush-disposal regulations.

§ 22.4 Minimum price list for poles, posts, lumber, etc., cut from dead or down timber in Glacier National Park.

(a) Cedar products:

| | |
|------------------------------|---------------------|
| Cedar poles, 25 feet or less | 1/4¢ per lineal ft. |
| Cedar poles, 30 feet or over | 1¢ per lineal ft. |
| Cedar posts | \$0.004 each. |
| Cedar stumps | 1¢ per lineal ft. |
| Cedar shakes | \$2 per M. B. M. |
| Cedar saw timber | \$1 per M. B. M. |

(b) Other products:

| | |
|-----------------------------|---------------------|
| Cord wood | 0.50¢ per cord. |
| Split posts (other species) | \$0.002 each. |
| 7-foot. | |
| Poles (other than cedar) | 1/4¢ per lineal ft. |
| Saw timber, western white | \$2 per M. B. M. |
| pine. | |
| Saw timber, other species | \$1 per M. B. M. |

§ 22.5 Concessioners.

All concessioners operating under existing agreements with the Secretary of the Interior will be subjected to the clauses covering the use of timber as provided in their respective agreements.

PART 25—NATIONAL MILITARY PARKS; LICENSED GUIDE SERVICE REGULATIONS

Sec.

- 25.1 Scope.
- 25.2 License.
- 25.3 Supervision; suspensions.
- 25.4 Schedule of rates.
- 25.5 Badges and uniforms.

AUTHORITY: §§ 25.1 to 25.5 issued under sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3. Interpret or apply sec. 1, 47 Stat. 1420; 16 U. S. C. 9a.

§ 25.1 Scope.

The regulations in this part are made, prescribed and published for the regulation and maintenance of licensed guide service at all national military parks where such service has been established, or hereafter may be authorized in the discretion of the Secretary of the Interior upon the recommendation of the Director of the National Park Service.

§ 25.2 License.

(a) No person shall be permitted to offer his services or to act as a guide unless licensed for that purpose by the superintendent. Any person desiring to become a licensed guide shall make application to the superintendent in writing for authority to take the examination for a license as guide.

(b) Guides shall be of good character, in good physical condition, honest, intelligent, tactful, and of good repute. They must be thoroughly familiar with the history of the events which the park commemorates and with the location of all memorials. It is their duty to escort visitors to the various parts of the park and point out different historical features. The story of the guides shall be limited to the historical outlines approved by the superintendent and shall be free from praise or censure.

(c) Examinations will be held at parks where a licensed guide service is authorized, at times to be designated by the Director of the National Park Service, for the purpose of securing a list of eligibles for such service. The examination will consist of an investigation of the character, reputation, intelligence, and ability of the applicants, and of questions designed to test their knowledge of the history of the battle, or features of historical interest, the markings of the park, the rules and regulations promulgated for the government of the park, and the regulations governing the guide service. Examination questions will be prepared under the direction of the Director of the National Park Service, who will likewise supervise the marking of examination papers and the rating of applicants.

(d) The names of applicants who successfully pass the examination will be placed on a list of eligibles and selected in accordance with their relative standing.

(e) Each person licensed to act as guide will be issued a license in the following form:

(Place)

(Date)

_____, having successfully passed the examination prescribed for license, is hereby licensed to offer his service as a guide to visitors. This license is issued subject to the condition that the licensee shall comply with all the rules and regulations prescribed for guide service by the Secretary of the Interior and with the prescribed schedule of rates, copies of all of which have been furnished to him.

This license will be renewed at the expiration of one year from the date of issue, provided the rules above-mentioned have been fully complied with and services rendered satisfactorily.

Failure to act as a guide for any period exceeding 30 days between June 1 and August 31 automatically suspends this license. Renewal under these conditions will only be made following proper application to and approval by the park superintendent. During other times of heavy visitation, and especially on week ends and holidays, any and all guides are subject to call for duty unless excused by the park superintendent or his representative.

Superintendent
National Military Park.

(f) Before being issued a license to act as a guide, each applicant will be required to subscribe to the following agreement:

(Place)

(Date)

To Superintendent, _____ National Military Park.

For and in consideration of the issuance to me a license to act as guide, I hereby accept and agree to observe fully the following conditions:

1. To abide by and observe the laws and all rules and regulations promulgated for the government of the park and for the regulation of guide service.

2. In case of difference of opinion as to the interpretation of any law, rule, or regulation, to accept the decision of the superintendent.

3. To accord proper respect to the park rangers in their enforcement of the rules and regulations.

4. To require drivers of all vehicles, while under my conduct, to observe the park rules and regulations.

5. To be watchful to prevent damage to, or destruction of, park property or acts of vandalism affecting monuments, buildings, fences, or natural features of the park; to report any such damage, destruction, or vandalism which I may observe to the nearest available ranger without delay, and to furnish him with all information in my possession tending to identify the offenders and assist in their apprehension and punishment.

6. To demand of visitors nor more than the authorized fees for guide service and, when employed, to render service to the best of my ability.

7. To advise visitors who employ me, in advance, the length of time needed for a trip and its cost and, if visitors desire a shortened tour, to arrange for such service as may suit their convenience.

8. (a) Not to operate for hire any passenger vehicle or other vehicle of any kind, while pursuing the vocation of guide or wearing a guide's badge or uniform.

(b) Not to operate a visitor's motor vehicle unless I hold a valid motor vehicle operator's license issued by the State in which the national military park is located.

(c) Not to charge an extra fee for operating a visitor's motor vehicle.

9. In the event my license should be suspended or revoked by the superintendent, to refrain from offering my services or pursuing the vocation of guide, pending appeal to and decision of the Director of the National Park Service.

10. To return the license and official badge without delay to the superintendent should my license be revoked or suspended for more than 5 days or upon abandoning the occupation of guide.

11. While wearing the badge of a guide or any uniform or part of a uniform indicating me to be a guide, I will not act as agent, solicitor, representative, or runner for any business or enterprise whatever (except in offering my services as a guide to visitors), nor solicit nor accept from any person, firm, association, or corporation any fee, commission, or gratuity for recommending their goods, wares, or services.

(Signed) -----

§ 25.3 Supervision; suspensions.

(a) The guide service will operate under the direction of the superintendent or his designated representative. Records will be kept of the efficiency of the guides and of all matters pertaining to the service.

(b) Superintendents are authorized to suspend any guide for violation of the regulations or for conduct prejudicial to the interests of the Government. A full report of the facts attending each suspension will be made to the Director of the National Park Service. The license of a guide who has been suspended indefinitely will not be renewed without the approval of the Director of the National Park Service.

§ 25.4 Schedule of rates.

As the conditions of each park differ with respect to the proper charge for the service rendered to the public, the schedule of rates for observance by the licensed guides at each separate park will be submitted to the Director of the National Park Service for approval. The superintendent will prepare itineraries arranged so as best to observe the different features of the battlefield and submit them with recommendations as to schedule of rates to the Director of the National Park Service for approval.

§ 25.5 Badges and uniforms.

Licensed guides will be furnished with official badges as evidence of their authority, which shall remain the property of the Government and be returned to the superintendent upon relinquishment or revocation of the license as a guide. Where conditions warrant it and its purchase would not prove a hardship on the guides, they may be required to adopt a standard uniform, to be procured at their own expense.

PART 26—OLYMPIC AND MOUNT RAINIER NATIONAL PARKS; TIMBER DISPOSAL REGULATIONS

Sec.

- 26.1 Disposal of logs, fuel wood, etc.; cutting of green timber.
- 26.2 Permits.
- 26.3 Timber disposal operations.
- 26.4 Prevention and suppression of forest fires.
- 26.5 Brush and debris disposal.
- 26.6 Minimum prices for logs, poles, etc.
- 26.7 Concessions.

AUTHORITY: §§ 26.1 to 26.7 issued under sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3.

§ 26.1 Disposal of logs, fuel wood, etc.; cutting of green timber.

The disposal of logs, fuel wood, poles, and other forest products in Olympic and Mount Rainier National Parks by timber disposal permits is permitted only where such disposal will be of benefit to the forest stand through the reduction of existing fire hazards, such as are caused by dead, down, or blowdown timber. In no instance will the cutting of green timber be permitted for private use except on road right-of-way clearing projects or in blowdown clearing projects where such timber may be made available.

§ 26.2 Permits.

(a) All timber disposal permits shall be issued and approved in writing by the superintendent's office prior to the initiation of any cutting activities. Such permits shall include a map designating the area to be cut. Application for such permits should be made to the superintendent.

(b) All timber disposal permits may be suspended when weather conditions or other considerations make timber disposal operations undesirable for the best interests of the Government.

(c) Permittees and their employees and agents shall at all times conform to all laws and regulations applicable to Olympic and Mount Rainier National Parks.

§ 26.3 Timber disposal operations.

(a) All Douglas fir, Sitka spruce, and western white pine logs are considered merchantable which are not less than 20 feet long, at least 12 inches in diameter inside bark at small end, and after deductions for visible indications of defect scale 33 1/3 percent of their gross scale.

(b) All western red cedar logs, chunks, and slabs are considered merchantable which are not less than 20 feet long; such logs to be at least 12 inches in diameter inside bark at small end and chunks and slabs to be at least 12 inches minimum end measurement, which logs, chunks, and slabs, after deductions for visible in-

dications of defects, scale 33 1/3 percent of their gross scale in material which will make shingles of any merchantable grade.

(c) Logs of other species are considered merchantable which are not less than 20 feet long, 12 inches in diameter inside bark at small end, and scale 50 percent or more of their gross scale.

(d) All cordwood shall be utilized to a minimum diameter of 6 inches unless rotten.

(e) Stump heights under ordinary circumstances shall not exceed 24 inches on the side adjacent to the highest ground.

(f) No cutting of dead-topped or other partially green trees, except in windfalls, shall be permitted unless marked for cutting by the superintendent or his representative.

(g) Poles and piling shall be measured in lineal feet to the nearest 2-foot length.

(h) All cedar timber cut for shingles may be measured in board feet, using the Scribner "Decimal C" log rule, or may be measured by the number of shingles cut.

(i) All saw logs shall be scaled by the Scribner "Decimal C" log rule. The maximum scaling length for saw logs shall be 40 feet. Greater lengths shall be scaled as two or more logs. Eight inches shall be allowed for trimming, and on logs over 40 feet in length an additional 2 inches shall be allowed for each 10 feet in length or fraction thereof in excess of 40 feet.

(j) Fuel wood and split pulpwood shall be measured in cords.

(k) Damage resulting to forest reproduction or remaining trees shall be kept to a minimum in all timber disposal operations. Any unnecessary damage to forest reproduction, remaining timber, or other ground cover, or the violation of any provision of the regulations in this part will, at the discretion of the superintendent, result in the cancellation of the permit. In the event of cancellation of the permit, all bonds given to guarantee the fulfillment of the terms of the permit shall be forfeited, and all moneys theretofore paid by the permittee as a part of the purchase price or otherwise may be retained as liquidated damages.

§ 26.4 Prevention and suppression of forest fires.

(a) Permittee shall independently do all in his power to prevent and suppress forest fires on the timber disposal area and its vicinity, and shall also require his employees and agents to do likewise. The permittee and his employees and agents shall, so long as the timber disposal permit remains effective, fight forest fires which may occur within the timber disposal permit area, or occur elsewhere as a result of the permittee's operations, independently or under the direction of a park officer, without compensation from the Government.

(b) During periods of fire danger, as designated by the superintendent, the permittee shall prohibit smoking and the building of fires by his employees and agents.

(c) Fire fighting tools and equipment as specified by the superintendent at the time of the issuance of the permit shall

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be kept in suitable caches by the permittee at points designated by the superintendent, and shall be used only for the suppression of forest fires within or threatening the timber disposal area.

§ 26.5 Brush and debris disposal.

(a) In no case will anyone attempt to burn brush or other debris without first obtaining a permit in writing from the superintendent.

(b) All debris resulting from cutting dead timber in green stands will be lopped or scattered so as to lie flat on the ground unless such disposal will, in the judgment of the superintendent, constitute a serious fire hazard, in which case such debris shall be piled and burned.

(c) All debris resulting from timber operations in old burns shall be piled and burned, with care taken to avoid injury to reproduction. In some instances, upon approval of the superintendent or his representative, the disposal of such debris may be made by lopping and scattering.

(d) The piling of debris in large piles shall be avoided, where possible, unless such piles are made in large openings in the forest cover.

(e) Piles of debris to be burned in place, unless located in large openings in the forest cover, shall not exceed 6 feet in diameter and 5 feet in height.

(f) Burning other than in piles may be permitted by the superintendent where, in his judgment, other methods are the most practicable.

(g) Piles which are not to be burned in place shall be placed where they are readily accessible for moving.

(h) No piling shall be done on shoulders of roads or in ditches or along banks immediately adjacent to roads.

(i) All permittees will be required to furnish men to burn brush or logging slash and clean up the area to the satisfaction of and at a time designated by the superintendent.

(j) Permits issued either for green timber or deadwood products on road rights-of-way clearing projects may, in the discretion of the superintendent, be exempted from the provisions of this section.

§ 26.6 Minimum prices for logs, poles, etc.

(a) Saw timber:

| | Per | M. B. F. |
|--------------------|--------|----------|
| Douglas fir | \$0.50 | |
| Sitka spruce | .50 | |
| Western red cedar | .50 | |
| Western white pine | .50 | |
| Western hemlock | .25 | |
| Silver fir | .25 | |
| Other species | .25 | |

(b) Other products:

| | |
|--------------------------|---------------------------|
| Douglas fir piling | \$0.0025 per lineal foot. |
| Western red cedar poles | \$0.0025 per lineal foot. |
| Western red cedar shakes | \$0.50 per M shake. |
| Fuel wood | \$0.25 per cord. |
| Split pulpwood, hemlock | \$0.25 per cord. |
| Split pulpwood, spruce | \$0.25 per cord. |

Provided, That free permits may be issued for timber included in designated

cleanup and fire hazard reduction areas where such operations will not interfere with National Park Service activities and will not adversely affect the vegetation or protection of the area. Such permittees are, however, subject to charge at double the minimum rates in effect at the time of issuance of the permits for all wood obtained outside designated cleanup and fire hazard reduction areas. Such charge will be considered as the price of the wood and also as liquidated damages.

(c) All forest products sold by the Government will be measured or scaled by a park officer or individual designated by the superintendent, either on the site of the cutting operations or at some other point designated by the superintendent.

(d) Forest products obtained on a free permit shall not be sold. The permittee must sign a statement to the effect that such products will not be sold to anyone and will not be used for the construction of buildings or other improvements on privately owned lands in Olympic and Mount Rainier National Parks.

§ 26.7 Concessioners.

All concessioners operating under agreements with the Secretary of the Interior will be governed by the clauses covering the use of timber as provided in their respective agreements.

[F.R. Doc. 59-10408; Filed, Dec. 7, 1959; 10:44 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 131]

[Docket AO16-A6]

ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Amended Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Amendment to Marketing Agreement and Order, as Amended

Pursuant to the rules of practice and procedure governing formulation of Marketing Agreements and Marketing Orders applicable to anti-hog-cholera serum and hog-cholera virus (9 CFR Part 132), notice is hereby given of the filing with the Hearing Clerk of the amended recommended decision of the Director of the Animal Inspection and Quarantine Division, Agricultural Research Service, United States Department of Agriculture, with respect to a proposed amendment to the marketing agreement, as amended, and to the order, as amended, regulating the handling of anti-hog-cholera serum and hog-cholera virus.

Interested parties may file written exceptions to this amended recommended decision with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., not later than the close of business on the 30th day after its publication in the FEDERAL REGISTER.

Exceptions should be filed in quadruplicate.

Preliminary statement. Testimony with respect to proposed amendments to the Marketing Agreement and to the Order, as amended, was received at a public hearing held at Kansas City, Missouri, July 24, 1956, pursuant to notice published in the FEDERAL REGISTER on June 23, 1956 (21 F.R. 4520). At the close of the hearing interested parties were given until September 24, 1956, to file proposed findings and conclusions, which time, upon application therefor by interested parties, was extended to January 2, 1957 (21 F.R. 8411). On the basis of the evidence adduced at the hearing and the record thereof, a recommended decision was issued by the Director, Animal Inspection and Quarantine Division, Agricultural Research Service, U.S. Department of Agriculture, and published in the FEDERAL REGISTER on February 7, 1958 (23 F.R. 832). Such recommended decision afforded interested parties thirty days from the date of its publication to file written exceptions thereto. On May 2, 1958, a notice of the reopening of the aforesaid hearing was published in the FEDERAL REGISTER (23 F.R. 2972). The notice set forth the reasons for such reopening and afforded interested parties the opportunity to: (1) Submit additional proposals relating to the subject matter of Proposal No. 2 of the notice of hearing, including any proposal with respect to specific exemptions in connection therewith and (2) submit additional evidence on Proposal No. 2 and appropriate exemptions therefrom, including evidence relating to any specific proposals so submitted. On June 19, 1958, a notice that the reopened hearing would be held in Chicago, Illinois, on July 21, 1958, was published in the FEDERAL REGISTER (23 F.R. 4432). Said notice set forth that additional evidence would be received on Proposal No. 2, or appropriate modifications thereof, of the notice of hearing published in the FEDERAL REGISTER on June 23, 1956 (21 F.R. 4520) and that evidence would be received on specific additional proposals, or appropriate modifications thereof set forth in said notice.

Testimony with respect to the proposals set forth in the notice of hearing published in the FEDERAL REGISTER on June 19, 1958, was received at public hearings held in Chicago, Illinois, on July 21-22, 1958, and on December 1-11, 1958 (23 F.R. 6379, 7587). At the conclusion of the hearings, interested parties were given 90 days in which to file proposed findings and conclusions and thirty days thereafter to file reply briefs to any proposed findings and conclusions filed, which time, upon application therefor by interested parties, was extended to March 30, 1959, for filing of briefs and May 18, 1959, for filing of reply briefs.

The material issues presented on the record of the original hearing and the reopened hearings are (1) the terms and conditions under which sales of serum and virus may be made between manufacturer handlers; and (2) whether or not the marketing agreement and order should contain additional provisions: (a) Prohibiting the payment of patronage dividends or refunds based on the

volume of purchases of serum or virus by buyers or other discounts and refunds to buyers not immediately ascertainable from a posted price at the time of sale, except that a farmer cooperative association may pay patronage dividends; (b) prohibiting the handling of serum and virus by a handler who owns an interest in or exercises control over, or in whom an interest is owned or over whom control is exercised by another handler coming within a different classification of handler, excepting therefrom a farmer cooperative association; and (c) prohibiting the handling of serum and virus by a manufacturer or a wholesaler handler who designates or utilizes as his agent or distributional outlet a consumer or another handler coming within a different classification of handler than such manufacturer or wholesaler handler.

The findings, conclusions and recommended order amendments contained in the recommended decision of the Director, Animal Inspection and Quarantine Division, Agricultural Research Service, issued on February 3, 1958, and published in the *FEDERAL REGISTER* on February 7, 1958 (23 F.R. 832) are hereby confirmed and adopted with the exception of the following amendment: Delete the item denominated 2, containing findings and conclusions of such decision, and the recommended order amendment denominated 3 in such decision. The findings, conclusions and recommended order amendment of the recommended decision, as so amended, and as hereby further amended, are as follows:

Findings and conclusions. On the basis of the evidence adduced at the hearings of July 24, 1956, July 21, 1958, and December 1, 1958, and on the records thereof, it is hereby found and concluded as follows:

1. The findings and conclusions contained in the item denominated 1 of the recommended decision, on proposed amendment 1 of the notice of hearing published in the *FEDERAL REGISTER* on June 23, 1956 (21 F.R. 4520), are adopted herein as if set forth in full herein.

2. The marketing agreement and order should be amended to: (a) Prohibit manufacturer and wholesaler handlers from paying, or agreeing to pay, patronage dividends or refunds based on the volume of purchases of serum or virus to the purchaser thereof or any other discount or refund not immediately ascertainable from the posted price at the time of sale, providing, however, for the exemption therefrom of the payment of patronage dividends by a farmer cooperative association; (b) provide that a person shall not be classified as a wholesaler, or shall be deleted from the list of qualified wholesalers, if such person owns an interest in a dealer; or appoints or utilizes any dealer as his agent or distributional outlet; or where an interest is owned in such person by any dealer, providing, however, that if such person is a corporation ownership by dealers of a combined interest not to exceed 10 percent of the total outstanding stock of all classes of such corporation shall not disqualify the corporation for wholesaler status and providing, further,

that these provisions shall not apply to a farmer cooperative association, and (c) prohibit a manufacturer handler from selling serum or virus to or through any wholesaler or dealer which such manufacturer appoints or utilizes as his agent or distributional outlet or in which such manufacturer owns an interest. The term "farmer cooperative association" should be defined as recommended herein.

In order for a clearer understanding of the causes of the present controversies and conditions in the industry, it is believed that a short dissertation on the purposes of the act and conditions prior to its passage, the nature of the disease of hog cholera, the present regulatory provisions of the order, the products regulated thereunder and their use, and the composition and distributional patterns of the serum and virus industry would be of benefit. Such information is contained in the legislative history of the act, the order, and the promulgation record on the order and the hearings on the proposed amendments.

The declared policy of the act, under which the marketing agreement and order was issued, is to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus (hereinafter referred to as "serum", "virus", "vaccines" or "products") by regulating the marketing of serum and virus, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing. The legislation was considered necessary in view of the highly virulent and contagious nature of the disease of hog cholera, its characteristics to spread very rapidly, its existence at all times in some part of the United States, the disastrous effect a wide-spread epizootic would have on the national economy and the fact that the disease can be controlled only by the use of serum and virus. The time element in the receipt of serum in the face of a hog cholera outbreak is of utmost importance and can be the difference between disastrous losses and comparative safety, on an ever widening perimeter, because of the rapidity of the spread of the disease. An epizootic can and has spread across the entire United States in a very short period of time.

Prior to enactment of the legislation, several major epizootics of hog cholera swept the country causing great economic loss to breeders of swine, growers of corn, wheat and other grain, meat packers and railroads and created unemployment in such industries, increased the price of pork and other meats to the consuming public and affected the national economy. These epizootics could not be controlled because of the lack of a sufficient and available supply of serum. This shortage was occasioned by cut-throat competition in the industry which drove the price of serum to such a level it was not profitable to produce it and carry reserve inventories, resulting in a shortage when it was drastically needed. The promulgation record on the original marketing agreement and order (Hearing of January 13 and 14, 1936, Omaha, Nebraska) sets forth more fully the con-

ditions existing prior to regulation. Since the regulation of the industry there has been no uncontrollable epizootic of hog cholera.

The act authorizes the inclusion of provisions in the marketing agreement and order requiring each manufacturer handler to have in inventory a specified reserve supply of serum on a specific date of each year; requiring handlers to sell serum and virus only at the prices filed by such handlers in the manner provided in the marketing agreement and order; prohibiting unfair methods of competition and unfair trade practices; providing for the selection of an agency for administration of the order, setting forth the powers of such agency; reporting and assessment provisions; and provisions incidental to, and not inconsistent with, the terms and conditions specified in the act and necessary to effectuate the other provisions of such order. The act specifically exempts the marketing agreements upon which the order is based from the antitrust laws of the United States.

The order was originally issued on December 3, 1936 (1 F.R. 2074) and has been amended from time to time since its issuance. The major regulatory provisions of the order require each manufacturer handler to have in inventory on a specific date of each year a specified minimum reserve supply of serum; requires each "manufacturer" and "wholesaler" handler to file with the Secretary and the Control Agency administering the order, his selling prices, discounts and terms of sale to the classifications of purchasers defined in the order and regulations as "wholesaler", "dealer" and "consumer", which prices, discounts and terms of sale must be uniform to all buyers within the same classification; and prohibits sales, bids, offers, contracts to sell or deliver, at prices, discounts and terms of sale different from those set forth in his filed price list which is effective at the time such sale, bid, offer, contract to sell or delivery is made. Provision is made for amending such price list and each handler may file any price he thinks proper for the conduct of his business. Notice of such price filing is required to be given immediately to all handlers, and all price lists are to be made immediately available to the press and the consuming public. Specified unfair methods of competition and unfair trade practices (among which is the payment of rebates, refunds, commissions or unearned discounts or the extending of special services or privileges not extended to all purchasers) are prohibited.

The products regulated under the order are anti-hog-cholera serum and virulent hog cholera virus, and modified and inactivated hog-cholera virus (vaccine). Serum is made and tested in accordance with Departmental specifications under the direct supervision of employees of the Department and the vaccines are tested under such direct supervision. The cost factors of manufacturing the particular products are approximately the same with the exception of economies effected by efficiency of operations or in the purchase of materials. The quality of the particular products are approximately the same.

PROPOSED RULE MAKING

These products are used in the immunization of swine against the disease of hog cholera. The inoculation by serum alone gives immediate immunity to the disease, which passive immunity lasts for a period of approximately three weeks. This period of passive immunity could be greater or less depending on factors such as the potency of serum, dosage of serum administered, animal to be inoculated, and perhaps others. The simultaneous use of serum with virulent virus in appropriate doses, gives immediate permanent immunity to the disease in unexposed animals. Serum is the only product which can be used to treat swine which are affected with hog cholera; however, it is a common practice to administer virulent virus simultaneously with serum to swine in affected herds. Inoculation with modified virus (vaccine) gives immunity within seven days after inoculation. Inactivated virus provides immunity in approximately two weeks after use. There are two types of modified virus, one of which must be used with a small amount of serum, and the other may be used without serum although the use of a small amount of serum is often recommended. The sales of the first named type amount to approximately 64 percent and the second named type to approximately 30 percent of the total of all vaccines marketed. Inactivated virus is used without serum in the immunization process and its sales amount to approximately 6 percent of the total of all vaccines marketed. Prior to the discovery of the vaccine, the serum-virulent virus method of vaccination was the only known method which would give permanent immunity to swine against the disease. Since the discovery of the vaccines in 1951 their use as immunizing agents has displaced approximately 85 percent of the simultaneous method of vaccination.

The percentage of the estimated immunization of the total pig crop is lower in the last two years than it has been since the inception of the order. It has steadily decreased from 55.7 percent in 1950 to 35.6 percent in 1957. It is in periods of low percentage vaccination of the total pig crop that epizootics occur. The reserve supply of serum in 1957 was approximately 56 percent of the reserve in 1950, mainly due to the displacement of the serum-virulent virus method of inoculation by the vaccine method. A serious outbreak of the disease under the foregoing conditions possibly could be disastrous.

The serum and virus industry, traditionally, is divided into two groups commonly known as the "ethical" group, which markets its products principally through veterinarian channels, and the

"lay" group, which markets its products through the usual business channels. Approximately 70 percent of all the serum and modified virus marketed is marketed by the "ethical" group.

The thirty manufacturers of the products consist of twenty-six proprietary stock corporations, 20 of which market through "ethical" channels, one sole ownership, who markets through "lay" channels, one limited partnership, whose limited partners are veterinarians, and two cooperative corporations, whose membership is composed of veterinarians only. The great majority of the serum and virus manufacturing plants are located in eight States in or adjacent to the corn-hog belt of the United States, but there are manufacturing plants on the West Coast, the East Coast, in the Southeast and Southwest. Approximately twelve of the manufacturers market their hog cholera immunizing products on a national basis, ten market in five or more States, and eight market in less than five States.

The "ethical" manufacturers market a large portion of their serum and virus directly to practicing veterinarians, who come within the "dealer" definition of the order. They also sell directly to those "wholesalers" who market principally to practicing veterinarians. The practicing veterinarian generally does not sell the products directly to owners and raisers of swine but furnishes the products when vaccinating swine, for which he usually charges a fee covering the service and the consumer price of the product. The "lay" manufacturers market their serum and virus to those "wholesalers" who sell directly to drug stores and other retail outlets coming within the "dealer" definition of the order and to farmer cooperative association "wholesalers" who sell such products to its member associations, who resell it to their farmer members.

The foregoing are the general distributional patterns of the industry and the usual channels whereby serum and virus reach the ultimate consumer, the raisers of swine. However, there are variations of these distributional patterns as manufacturers in the serum industry traditionally have marketed their products at all levels of distribution, arising apparently because of the traditional "ethical" distributional pattern (since approximately 1913) and because of circumstances requiring emergency shipments of serum in the event of an epizootic of hog cholera. There is no requirement in the order restricting marketing by "manufacturers" to any one classification of purchasers, and no such marketing restrictions on a "wholesaler" except that

75 percent of his sales are required to be made to "dealers".

From the inception of the order until 1952, there were no serum or virus manufacturing units that were owned or operated by practicing veterinarians or by cooperative associations of practicing veterinarians. A practicing veterinarian comes within the "dealer" definition of the order. In 1952, the Iowa Cooperative Association was formed by a group of 14 practicing veterinarians. It is a cooperative corporation organized under Chapter 499, Code of Iowa, and presently is a manufacturer of vaccines. It purchased the assets of the Diamond Serum Company, including the Diamond brand name, and does business under the name of Diamond Laboratories. It limits its membership to veterinarians. Official notice is taken of Departmental records regarding the licensing of the members of the Diamond group to produce hog cholera products. Iowa Cooperative Association was licensed to produce serum and virulent virus on June 11, 1952; modified virus (two types) in February 1954 and February 1955 and inactivated virus in December 1955. It requested cancellation of its license to manufacture serum and virulent virus on April 14, 1957. As of December 1958, its total membership was approximately 130 practicing veterinarians, located mainly in Iowa. Its assistant general manager and laboratory director testified that it presently manufactures in the neighborhood of 200 separate veterinary products. It distributes its net profits to its members through the payment of patronage dividends in exact proportion to each member's purchases of the products during the accounting period. Dividends may be credited toward payment of a membership fee.

In 1957, the members of Iowa Cooperative Association organized Diamond Laboratories Company, a limited partnership. The limited partnership consists of three general partners, two of whom are members of Iowa Cooperative Association and the other is the general manager of the Association and of the limited partnership, and approximately 94 limited partners, which, at the date of formation, constituted the full membership of Iowa Cooperative Association. All the partners are veterinarians with the exception of one general partner. Subsequent limited membership is subject to the approval of the general partners. It is indicated that the number of limited partners has been expanded to include other members of Iowa. Diamond Laboratories Company was licensed to produce serum and virulent virus on April 14, 1957, the date Iowa

Cooperative Association's license to produce such products was cancelled. It purchases vaccines from Iowa Cooperative Association on a cost price plus 5 percent basis. It sells principally to wholesalers who are located throughout the United States. It does not sell direct to its veterinarian partners but does sell serum and virus to Iowa Cooperative Association on a cost price plus 5 percent basis and sells hog cholera products to United Veterinary Cooperative at its "wholesaler" posted price. It distributes its net profits to its general and limited partners in proportion to their relative proprietary interest.

In 1958, the Diamond companies fostered the organization of United Veterinary Cooperative under Chapter 499, Code of Iowa (1954), as an outlet for hog cholera immunizing products through the limited partnership to practicing veterinarians who were not members of Iowa Cooperative Association. The membership is limited to veterinarians and the net profits of the cooperative is distributed as patronage dividends to its members in exact proportion to each member's purchases of the products during the accounting period. Patronage dividends are paid to applicants for membership and are applied toward the payment of membership fees. As of December 1958, its membership was approximately 80, most of whom reside, and practice veterinary medicine, in the States of California, Minnesota, Illinois and a few in Iowa. All its members are also stockholders of United Veterinary Corporation, and its Board of Directors are all members of Iowa Cooperative Association. One of the Directors is also a Director of such association. The record indicates it is in the process of obtaining more members; that Diamond Laboratories Company has salesmen performing services for United Veterinary Cooperative who do not, "in the usual sense," "take orders" but are "involved in getting members." United Veterinary Cooperative was licensed to manufacture modified virus on July 10, 1958. It purchases hog cholera products from Diamond Laboratories Company at Diamond's posted "wholesaler" price, although it is a manufacturer under the order.

In 1957, Diamond Laboratories Company organized United Veterinary Corporation under the general corporate law of Iowa, the members of which are approximately the same as that of United Veterinary Cooperative. It was organ-

ized as an outlet for veterinary supplies of Iowa Cooperative Association and does not produce any veterinary products. Its Class A stock is limited to veterinarians, the present members of which are located mainly in Illinois, Minnesota and California, and the Class B stock is held by Diamond Laboratories Company. Each class of stock is equally represented on the board of directors, but in the event of a tie vote, the decision rests with the Class B stock. Four of the eight directors are management officials of one or more of the other firms in the Diamond group. The share of the net profits of the corporation distributed to Class A shareholders (veterinarians) is distributed through the payment of patronage dividends in proportion to each such person's patronage of the business and to Class B stockholders is distributed on the basis of stock ownership. When the corporation's application for a license to manufacture modified virus was denied by the Department, the aforesaid United Veterinary Cooperative was organized and now has approximately the same membership. As the corporation does not have a license to manufacture serum or virus, it is not qualified to handle serum and virus except as a "dealer" on the basis of all its members being veterinarians. A Diamond group witness stated that it does not presently handle hog cholera products, although the records of the Department show that it has handled such products as agent of Diamond Laboratories.

Each of the foregoing firms, Iowa Cooperative Association, d/b/a Diamond Laboratories, Diamond Laboratories Company, a limited partnership, United Veterinary Cooperative and United Veterinary Corporation, commonly referred to as the Diamond group, or Diamond affiliates, maintain their business office at the same address where Iowa Cooperative Association's manufacturing plant is located; the only name on the building is "Diamond Laboratories;" the same person is the general manager for all the firms; the same person is assistant general manager for three of the firms; other executives perform services for more than one of the firms; the directors of United Veterinary Cooperative are members of Iowa Cooperative Association and one of them is also a Director of such association; executive employees of one or more of the firms are Directors of one of the firms; certain

of the employees perform services for all the firms and the others perform services for more than one of the firms; at least two of the firms use the same distributional outlets in other States and the employees employed therein; Diamond Laboratories Company sells to all the other firms and Iowa Cooperative Association sells to Diamond Laboratories Company; and Iowa Cooperative Association and Diamond Laboratories Company both ship vaccines produced by such association, from a common shipping cooler. Separate books and records are maintained under each firm's name and salaries of employees and operating costs are allocated to the respective firms on an accountant's recommendation.

While all details of operations and controls of the various organizations in the Diamond group were not spread on the record,¹ nevertheless the record discloses that control over the group operation is exercised by Iowa Cooperative Association either directly or through Diamond Laboratories Company (a limited partnership whose membership is approximately the same as that of Iowa Cooperative Association), by means of Board of Director representation, ownership of stock and interlocking management. There is intermarketing of the products between the various concerns under terms which are advantageous to the integrated memberships of Iowa Cooperative Association and Diamond Laboratories Company. The products manufactured by Iowa are channeled through the partnership to the other two organizations.

As the details of the interlocking nature of the Diamond group firms and the movement of the products among and out of the firms are somewhat complex, two charts have been prepared entitled "Interlocking Nature of Diamond Group" and "Movement of Hog Cholera Products by Diamond Group" which sets forth pertinent facts with respect thereto in graphic form as follows:

¹ The group's counsel did not see fit to place a witness on the stand with full knowledge of all operations and controls even though the general manager of all the organizations was present at the hearings. The Department does not have subpoena power for the purpose of compelling testimony in promulgation hearings on the Marketing Agreement and Order. All testimony given at the hearings was voluntary.

PROPOSED RULE MAKING

INTERLOCKING NATURE OF DIAMOND GROUP

Iowa Cooperative Association
d/b/a Diamond Laboratories

Approximately 130 members:

Office & Personnel

- .. Business office of all firms maintained at same address.
- .. General Manager of all the firms is the same person and is also a general partner of Diamond Laboratories Company.
- .. Assistant General Manager of three of the firms is the same person.
- .. Other executives perform services for more than one firm.
- .. Certain employees perform services for all the firms and the others perform services for more than one of the firms.
- .. At least two of the firms use the same distributional outlets.
- .. Separate books and records are kept under the firm names and salaries and operating costs are allocated to the respective firms on an accountant's recommendation.

Diamond Laboratories Company

3 General Partners and 94 limited partners at time of organization, all except 1 general partner constituted entire membership of Iowa Cooperative at time of organization. Indicated other members of Iowa have been added. Its salesmen solicit memberships for United Veterinary Cooperative

United Veterinary Cooperative

Approximately 80 members at time of hearing. Soliciting new members. All members are stockholders in United Veterinary Corporation. The Board of Directors are all members of Iowa Cooperative Association.

United Veterinary Corporation

Class A stock owned by veterinarians who are approximately the same members of United Veterinary Cooperative. Class B stock owned by Diamond Laboratories Company and one half the Directors are management officials of one or more of other firms of the Diamond Group. In the event of a tie vote, class B stock controls

MOVEMENT OF HOG CHOLERA PRODUCTS BY DIAMOND GROUP

Iowa Cooperative Association
d/b/a Diamond Laboratories

Manufactures vaccines and 200 other products. Sells only to its members and to Diamond Laboratories Co. at cost plus 5%. Buys serum and virus from Diamond at cost plus 5%.

Diamond Laboratories Co.
(Partnership)

Manufactures serum and virus only. Buys all products from Iowa Cooperative Association and vaccines from United Veterinary Cooperative and sells to all firms in "Diamond group" and to independent "wholesalers". Sells serum and virus to Iowa at cost plus 5% and to United Veterinary Cooperative at "wholesaler" price and buys vaccines from Iowa and United Veterinary Cooperative at cost plus 5%. Does not sell to its partners.

United Veterinary Cooperative

Manufactures vaccines only. Buys all products from Diamond Laboratories Company. Sells all products to members only, and vaccines to Diamond Laboratories Company at cost plus 5% and buys serum and virus from Diamond at Diamond Laboratories Company "wholesaler" price.

Independent Wholesalers

Partnership sells all products to independent "wholesalers" (on a national basis) and sells hog cholera products at its posted wholesaler price

United Veterinary Corporation

Does not manufacture hog cholera products or "handle" it. Purchases all other products from Diamond Laboratories Company. Department records show it handled hog cholera products as agent of Diamond Laboratories

With the exception of inter-group sales, Iowa Cooperative Association sells the products to its "dealer" members only at its posted "dealer" price, and Diamond Laboratories Company sells the products only to independent wholesalers throughout the United States at its posted "wholesaler" price, which wholesalers resell the products to "dealers" who are directly or indirectly in competition with the "dealer" members of Iowa Cooperative Association for consumer (farmer) business. The dealer members of this cooperative receive substantial patronage "dividends" or rebates on their purchases, thus reducing the net cost or price to them substantially below the posted "price". While the said "wholesaler" posted prices for the products are lower than the said "dealer" posted prices, the record indicates that by reason of such patronage rebates the dealer members of the said cooperative can purchase the immunizing products at an ultimate price lower than the price at which independent wholesalers purchase the same products from Diamond Laboratories Company.¹ Further, the dealer members of this cooperative, by reason of the patronage rebates, purchase the products at a much lower price than other dealers who purchase the same products from an independent wholesaler who purchases them from Diamond Laboratories Company, and at a lower price than any "dealer" can purchase from any other "wholesaler" or "manufacturer".²

Statistical evidence of record shows that Iowa Cooperative Association, d/b/a Diamond Laboratories, has increased its serum sales comparative rating among manufacturers from 13th in 1952, its first year of operation after purchase of Diamond Serum Company,³ to 5th in 1957 in which year it organized Diamond Laboratories Company, a limited partnership, which took over the manufacture of serum. In its first year of manufacturing vaccines (1954), it was 7th in sales rating which it increased to 5th. (Exhibits 103 c and d.) No other manufacturer of the products has had

such a rapid growth in sales in such a short period of time.

Except for the Diamond group of manufacturers, and one sole ownership, all other "manufacturers" under the order are corporations who distribute their profits on the basis of proprietary interest, i.e., stock ownership. Some of these corporations have wholly owned subsidiary corporations, or partially owned subsidiaries, but such subsidiaries (if handling serum or virus) post identical prices as the parent corporation. The record discloses that stock of some of the large corporations possibly could be owned by veterinarians for investment purposes but that such ownership would be very minor in comparison to the total stock issued by the particular corporation. It was indicated, however, that a substantial amount, but less than a majority, of the stock of at least one comparatively small corporation is owned by practicing and non-practicing veterinarians, and that stock ownership by veterinarians existed in one or two other similar corporations. No evidence as to specific percentages of such type of stock ownership and the number of corporations in which this condition existed was introduced into the record.

Aside from Iowa Cooperative Association and United Veterinary Cooperative, who are "manufacturers" under the order, the only other cooperative associations handling serum and virus are farmer owned and farmer controlled cooperative associations. These farmer cooperative associations operate as either "wholesalers" or "dealers" under the order depending upon their level of operations. A farmer owned or controlled cooperative association which is qualified as a "wholesaler" under the order purchases serum and virus from a "manufacturer" at the manufacturer's posted "wholesaler" price and markets it at its "dealer" posted price to its farmer cooperative association members, who operate as "dealers" in the distribution of such serum and virus directly to those of their farmer members who are raisers of swine. Such "dealers" sell the products to its members only at the "consumer" price. Each of these farmer cooperative associations distributes its net profits in the form of patronage dividends to its members in proportion to such members' purchases during the accounting period.

Farmer cooperative associations have operated under the order since its inception. The creation of the classification of "volume contract purchaser" contained in the original order was for the benefit of a farmer cooperative association, as evidenced by the original promulgation hearing record. Due to controversy caused by firms not performing the functions of a wholesaler qualifying thereunder such classification was placed in the "wholesaler" definition, in § 131.8, as subparagraph (b), and was later specifically restricted to farmer cooperative associations and Federal and State agencies by amendments to the order effective August 18, 1947 and January 27, 1958 (12 F.R. 5385; 22 F.R. 10907).

Other "wholesalers" under the order are composed of varying types of business units, such as sole ownerships, partnerships and proprietary corporations,

and, depending upon their size, their area of distributional operations vary from sections of States to several States and a few corporate wholesale houses operate on a national basis. As of December 1957, there were 240 qualified wholesalers under the order. A "wholesaler" holds its status under the order by virtue of affirmative action of the Control Agency upon a determination that it performs the functions of a "wholesaler" as defined in the order. Since the inception of the order, a firm has been denied qualification as a "wholesaler" if it was known that another class of handler owned an interest therein, or it owned an interest in another class of handler. Wholesalers compete for the business of "dealers." The "ethical" wholesaler principally is in competition for the business of practicing veterinarians and firms of practicing veterinarians, and the "lay" wholesaler competes for the business of lay vaccinators, drug stores, county farm bureaus and other firms who maintain stocks of serum and virus for sale to owners of swine. The foregoing is the general pattern of "wholesaler" competition and variances in competition exist, such as competition for the business of a raiser of a large herd of swine (consumer). However, this competition is somewhat limited in view of the 75 percent requirement for sales to "dealers" in order to qualify and maintain status as a "wholesaler."

Briefly stated, the proponents of proposals numbered 1 through 6 set forth in the notice of hearing of June 19, 1958 and of proposed modifications thereof made at the hearing contend (1) that the payment by handlers of patronage dividends, except by a farmer cooperative association, or other refunds to buyers not immediately ascertainable from a posted price at the time of sale, and (2) that ownership of an interest in or control over a handler by another handler coming within a different classification of handler except by a farmer cooperative association, and (3) that the designation or utilization by a "manufacturer" or "wholesaler" handler of another handler coming within a different classification of handler as such manufacturer or wholesaler handler's agent or distributional outlet, nullifies the purposes, objectives and effectiveness of the price posting and classification provisions of the order, constitutes unfair competition, creates disorderly conditions in the pricing, marketing and distribution of serum and virus thereby endangering an adequate and available supply of serum and virus to the raisers of swine, thus defeating the purposes of the act.

The Diamond group opposed the proposals with respect to the payment of patronage dividends and the ownership of an interest in a handler by another handler coming within a different classification of handler as applicable to veterinarian cooperative corporations, contending that payment of patronage dividends by a veterinarian-dealer owned manufacturer is compatible with the price posting provisions of the order, that "joinder of functions" in a cooperative promotes economic efficiency, that vet-

¹This statement is based upon computations made from statistical information and Exhibits 135 (1) and (3) showing financial data for the fiscal year 1957 of Iowa Cooperative Association and Diamond Laboratories Company, presented by a witness of the Diamond group, and the posted prices of each firm for the same period. While similar statistics are not available on United Veterinary Cooperative (it had not yet reached the end of its fiscal year) under a similar operation as that of Iowa it is reasonable to assume that approximately the same percentage rate of patronage dividends to sales and posted prices would be applicable to it.

²The range of price variance is small in the posted prices of all handlers for the various products for each classification of purchasers due to approximately the same quality of the respective products, costs of production and the highly competitive nature of the industry. The posted prices of the Diamond group are in line with the posted prices of other handlers under the order.

³Diamond Serum Company in the year prior to its purchase by Iowa Cooperative Association was 23d in comparative sales rating.

PROPOSED RULE MAKING

erarian owned cooperatives perform an essential economic function to the best interests of the swine producer and that cooperative competition is fair competition. In its brief, the Diamond group withdrew that portion of its proposal numbered 7, contained in the notice of hearing, placing restrictions on "merger of classifications" by handlers other than cooperatives.

Baldwin Laboratories, Inc., a proprietary corporation and manufacturer of vaccines (a portion of whose stock is owned by practicing and non-practicing veterinarians) opposed the "joinder of functions" proposal insofar as it applied to manufacturing proprietary corporations, contending that the ownership of stock by practicing veterinarians in a corporation which pays dividends on the basis of stock ownership was not the issue, but that the price posting requirements of the order could not be met by a manufacturer paying patronage dividends because while the posted price is known the actual cost to the dealer is not known until such dividend is paid.

Illinois Farm Bureau Serum Association and Iowa Farm Supply Company supported the exemption of farmer cooperative associations from the provisions relating to patronage dividends and "joinder of functions," and affirmatively supported their proposal denominated No. 6 of the notice of hearing of June 19, 1958, as modified at the hearing.

Proponents introduced testimony with respect to the cutthroat competition in the industry prior to regulation and the disastrous effects thereof. Manufacturers, wholesalers, dealers and swine raisers testified that multiple "producer" and "wholesaler" sources of serum and virus, coupled with an effective geographical pattern of distribution for immediate availability of an adequate supply of the products to the raisers of swine, was necessary for the protection of the swine-raising industry and that disorderly marketing of the products would endanger such sources and distributional patterns. Oral and documentary evidence by manufacturers and wholesalers was introduced of the loss of practicing veterinarian customers after such customers became members of a Diamond group cooperative paying patronage dividends; their inability to recover such customers as proprietary business units could not meet this type of competition as the order prohibited the payment of refunds and unearned discounts on purchases; that such type of competition was selling memberships in the cooperative and not the selling of the products and services as was met in usual competition for business and resulted in a "captive market" of practicing veterinarians; that after becoming members they "disappeared into oblivion" and were "gone forever" and their business could not be recovered as was often done where the loss of a customer was to a business unit which did not pay patronage dividends; and that the payment of patronage dividends defeats the purposes of the price posting provisions of the order as competitors cannot tell from the prices posted by an organization paying such dividends what the ul-

timate price of the product is that must be met in order to be in a position to compete. There was testimony that a practicing veterinarian was also placed at a competitive disadvantage in obtaining business for vaccination of herds of swine as he did not know the ultimate price paid for the products by a competing veterinarian who received patronage dividends on his purchases.

The testimony discloses the acceleration of the Diamond group veterinarian cooperative movement and steadily increasing areas of operation, and that there is no limitation on the potentials of the cellular growth of the Diamond group; that it could be expanded by interlinking units in the form of multiple partnerships, cooperatives or cooperative type corporations to the present four existing companies. There was testimony that ownership of or partial ownership of or exercising control over a handler by another handler coming within a different classification of handler, and designation or utilization by a manufacturer or wholesaler handler of another handler coming within a different classification of handler as such manufacturer or wholesaler handler's agent or distributional outlet nullifies the purposes and effectiveness of the price posting and classification provisions of the marketing agreement and order.

The Diamond group introduced evidence with respect to the component units of such group and their operations; introduced statistical data based on annual reports of Iowa Cooperative Association covering all products produced, including hog cholera products, showing the net profit earned on each dollar invested in Iowa and patronage dividends to total member equity, a profit analysis of the combined operations of Iowa and Diamond Laboratories Company, allocating expense and assets to product groups based on volume of sales ratio (without regard to actual cost of production of the various products and sale price thereof) disclosing the percentage of net profit on hog cholera products and other products to the estimated total assets used in the production and sale of hog cholera products and of other products; an analysis of selected samplings of price postings for certain periods in certain years prior to 1958; other statistical material; and testimony as to the importance of a serum reserve (which is not, and cannot be, in issue in this proceeding).

Such group contended that veterinarian cooperative operations are economically efficient and beneficial to its members and the raisers of swine; that "joinder of functions" promotes economic efficiency; that payment of patronage dividends by veterinarian cooperatives is compatible with the price posting provisions of the order; that veterinarian cooperatives are needed to combat the "evils" resulting from price posting (based upon conclusions drawn from the "patterns" of a sampling of price filings) and that its competitive force in the industry should result in a more efficient industry enuring to the benefit of the raisers of swine.

The Diamond group also contended that under price posting, free and open price competition did not exist because members of the industry allegedly were engaged in price fixing through "some kind of machinery for concerted action in changing prices" in that competitors "raise or lower prices together" and the posted prices for a particular product varied by only a few cents. This appears to be a general attack on the desirability of a price posting program, a question not in issue in this proceeding. Moreover, this charge was largely based on statistics prior to 1958, which failed to consider the practice prevalent at that time, whereby industry members could check daily on prices filed the same day, and could file a competitive price list by telegraph, which practice was terminated by order amendment effective January 1958; that certain manufacturers' prices fluctuate due to bids on State contracts for large supplies of the products; that the 1955 amendment to the order bringing vaccines under the order provisions resulted in numerous price filings and adjustments during 1955 in the competitive positions of the various products; that a parent corporation and its subsidiaries are required to file concurrently identical price lists; and common cost factors in the production and distribution of the products. The record does not support a conclusion that there is not free and open competition in the pricing of the products or that there is concerted action in price fixing by members of the industry. The prompt filing of new price lists to meet a change in price by a competitor and the narrow range in the prices filed for a particular product instead are indicative of the highly competitive nature of the industry and of approximately the same quality and same costs of production of the particular products.

(a) *Patronage dividends and refunds.* The price posting provisions of the act are for the purpose of effectuating stabilization of the industry to insure orderly marketing and an adequate and immediately available supply of the immunizing products to the raisers of swine by preventing undue and excessive fluctuations in the price, production and reserves of serum and virus. Price, production and reserves of the products are interdependent for if there is no assurance of price stability, production will decrease and reserves suffer thereby and if there is production in excess of demand and reserve requirements, the price of the products will be depressed. An excessive fluctuation in one causes repercussions on the others. The basic principle involved in price posting for stabilization purposes is that the price posted is an ultimate price which is uniform to all purchasers within the same class of buyers and that all interested parties, both buyers and sellers, know such ultimate price and all discounts and terms of sale applicable thereto. One of the major causes of the chaotic and depressed conditions in the industry prior to regulation which resulted in drastic losses to raisers of swine was traceable directly to lack of uniformity of prices, discounts and terms of sale to

the purchasers within the same class and knowledge of such prices by the various competitive elements of the industry.

One of the basic regulatory devices of the marketing agreement and order thus is that of mandatory price posting. Each manufacturing and wholesaler handler must publicly specify the prices at which each product will be sold by him to wholesalers, dealers and consumers, respectively, as defined in the order. No sale may be made except at the applicable posted price and posted prices can be changed only on three days prior notice. Discounts for prompt payment may be stated in the price posting but they must be immediately ascertainable and be available to all buyers of the class in question. Hidden and unearned discounts are prohibited.

The three classes of buyers, namely wholesalers, dealers, and consumers, are specially defined in the order and the definitions thereof are self-explanatory. The prices posted for wholesaler buyers always have been substantially lower than those for dealers or consumers and the posted prices for dealer buyers are in turn substantially lower than those for consumer (farmer) buyers. As indicated in the definition of "dealer," dealers generally are of two types. Veterinarian dealers buy serum and virus for administration to the swine of farmers and other dealers (including drug stores) resell serum and virus directly to owners of swine.

Under such a system of mandatory price posting, there is an incentive for buying dealers, including dealer veterinarians, to try to obtain serum and virus below the applicable posted prices while ostensibly paying such posted prices. One obvious way of avoiding effective price posting would be to offer a dealer buyer the prospect of a future, but indefinite, patronage rebate based on a calculation to be made in the future. Such a rebate would ordinarily violate the order and the proprietary manufacturer or wholesaler who makes or offers such a rebate would be subject to civil and criminal prosecution for violating the order. However, as heretofore stated, certain veterinarian dealers, members of the Diamond group, have been induced to obtain the net effect of such a rebate by joining a manufacturing cooperative composed of veterinarian dealers, which posts dealer prices at approximately the same level as those posted by other handlers but subsequently distributes dividends or refunds to its dealer members directly proportionate to the purchases made by each member. Each veterinarian member thus apparently buys at the so-called "posted" price, but such posted price is not a true price, because it is subject to reduction by way of a deferred price adjustment in the form of a patronage dividend. This "dividend" is not a return on capital or stock investment, for it is not related to the size of such investment. Instead, it is computed directly on the volume of purchases by the customer, making it clearly a refund directly associated with the customer's purchases.

An indirect evasion or avoidance of the mandatory price posting plan by means of such a cooperative scheme is just as serious a threat to the effectiveness of the whole price posting plan as a direct violation of the order by a proprietary handler who offers a "dividend" or patronage refund in like manner. Both have the same destabilizing effect on the whole regulatory plan. In both cases, the posted price "paid" by a dealer is not the actual price when the transaction is finally and fully consummated. In both cases, effective price posting is undermined or destroyed contrary to the purposes of the act.

The extraordinary growth of these dealer cooperatives is indicative of the advantages which member veterinarians enjoy by way of ostensibly paying a publicly posted price while actually paying a lesser price. The evasion or avoidance of the effect of mandatory price posting appears to have been and is a principal purpose of these cooperative plans indulged in by veterinarian dealers. Such evasion or avoidance of the mandatory price posting plan contemplated by both the act and the order has already caused considerable instability in an industry for which Congress has authorized a truly effective price posting plan as a means of achieving stability and orderly marketing conditions. It seems apparent that where some dealers must pay full posted prices but others need not do so, instability and disorderly marketing must follow, contrary to the declared policy of the act and the very essence and purpose of the mandatory price posting plan.

In such circumstances the vital interest of the swine raisers of the Nation for whose immediate protection the legislation was enacted, as well as the public interest, must be protected against a weakening or destruction of the regulatory plan by any device which seeks to evade or avoid that plan. This includes the cooperative cloak used by some veterinarian dealers who thus seek to evade or avoid the effect of mandatory price posting. A failure to cope effectively with such an evasion of price posting would almost certainly endanger or destroy the whole regulatory plan devised by Congress for the protection of this very vital industry.

As part of the regulatory plan, the act also authorizes the prohibition of unfair methods of competition and unfair trade practices. The situation heretofore described constitutes such an unfair method of competition. Veterinarian dealers who can buy at a net cost less than posted prices through the cooperative device clearly enjoy an unfair competitive advantage over others who must pay the full posted price. Likewise, the dealer cooperative which can offer its member dealers a rebate or refund has a decided competitive advantage over other regulated handlers who are prohibited by law from doing so. The record shows that this competitive advantage—created by the order as it now is effective—has been employed to induce veterinarian dealers to transfer their business to the dealer cooperatives. The dealer cooperatives, by thus being able

to shed its price posting obligations as a matter of reality and being able to offer its member dealers a preferred price arrangement not available to other sellers, makes such dealers captive customers for all practical purposes and destroys free competition in this respect. No other seller can offer these same price inducements without violating the regulatory orders. The payment of patronage dividends under the foregoing circumstances defeats the purposes and objectives of the price posting provisions of the act and constitutes an unfair method of competition and trade practice. It substantially restricts or destroys competition by removing the recipients thereof from the area of free and open competition and places both the seller and the recipients thereof with an unfair competitive advantage with their competitors operating on the same competitive level, resulting in injury to such competition. Where a marketing order issued under a statute which seeks to prevent unfair competitive advantages actually creates them, by regulating some while others can evade or avoid the effective regulation, the order must be rectified as a matter of common sense and fairness as well as statutory objectives.

It may be argued that it is unnecessary to prohibit the payment of patronage dividends in order to rectify competitive inequities under the order as all handlers have the choice of operating as cooperative corporations if they so desire and any inequities occasioned by patronage dividends are thereby incurred by choice. This argument ignores the effect that the extensive practice of paying patronage dividends would have on the price posting provisions and the regulatory scheme set forth in the order. If the payment of patronage dividends were permissible under the order such practice would completely nullify the price posting provisions and scheme of regulation set forth in the order. The price postings would not and could not show the varying amounts of patronage dividends paid as they would not be ascertainable until the end of the accounting period. The posting of prices would become a matter of form and of no effect as membership in the organization paying the highest percentage of patronage dividends would become more important than the prices posted by such organization. Marketing under such conditions would become a matter of competition for members rather than competition in the sale of the products as the centripetal forces of the profit motive on members would result in purchases from the members' own organization. As approximately 70 percent of the hog-cholera products marketed is sold through veterinarian channels, the competition on the "ethical" side of the industry for veterinarian members would become intense among manufacturers and among wholesalers and as between manufacturers and wholesalers. The wholesalers, of course, would be in no economic position to compete with a manufacturer for the business of veterinarian-dealers and would, through economic attrition, be driven out of the

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industry. Similar competitive situations would exist on the "lay" side of the industry with similar results. The scheme of regulation under the order, i.e., the posting of uniform prices for each classification of buyers and the uniformity of prices to each purchaser within a classification, would become a nullity and of no force and effect. An objective appraisal of the consequence of this type of competition results in the conclusion that chaotic marketing conditions would evolve causing excessive fluctuations of price, production and reserves with consequent injury to the swine industry, and the public interest, if prior history of the industry is indicative of the results of unrestrained competitive practices, particularly with respect to varying prices to purchasers within the same classification of buyers and lack of knowledge of the ultimate price to a particular class by buyers and sellers.

The dealer cooperatives contended that the cooperative plan is a more efficient and better method of distributing serum and virus. The record does not show that serum and virus can be produced more efficiently because it is made by a cooperative, nor does it show that a cooperative renders requisite distributional services more efficiently purely because it is a cooperative. The principal and perhaps the only reason for the rapid growth of the dealer cooperatives has been the opportunity to evade or avoid, by means of patronage refunds, the actual impact of mandatory price posting imposed on others by the regulatory order. This the dealer cooperatives have been able to do only because they are cooperatives, but this constitutes a reason for correcting the order rather than perpetuating the artificial advantage enjoyed by them.

The dealer cooperatives also contended that their payment of patronage dividends is a distribution of earnings rather than an adjustment of price and therefore is not inconsistent with effective price posting regulation. As previously stated, the actual net effect and apparent purpose of such patronage "dividends" is to adjust downward the net price or cost actually paid by member dealers below the level of the posted dealer price. This adjustment or "dividend" is not based on invested or accumulated capital, but is directly associated with and dependent on serum and virus purchases by the dealers. Thus a dealer who has a substantial capital investment in the cooperative but buys no serum or virus from it gets no patronage dividend. Conversely, dealers with substantial purchases receive dividends or refunds wholly disproportionate to their investment or share of the capital assets of the cooperative. In such circumstances, the technical or legalistic means by which the dividend refund, rebate, or price adjustment is accomplished, derived, or distributed is of little consequence for regulatory purposes of this Federal price posting program. If, as here, the net actual effect is to make a deferred adjustment of the price paid, i.e., a reduction of the actual cost of the purchase to the dealer below the ostensible posted price, it should be dealt with

as a price adjustment or rebate for purposes of this program.

Where a legalistic cloak conceals or obscures the true nature and purpose of a transaction and such transaction is contrary to or evades or avoids the regulatory effect and purposes of a Federal order having the force and effect of law, including a price posting program such as the one here involved, the Federal government has the power to pierce this legalistic veil and appraise and deal with the transaction in realistic fashion. In the circumstances here presented, we conclude that the patronage dividends paid by the dealer cooperative are in fact deferred price adjustments to dealers and should specifically be prohibited as violative of the spirit, purpose and objectives of the price posting provisions of the act and the order.

This conclusion and result is in accord with other Federal government action, both in this general field and in these specific circumstances. Official notice is taken that for many years, the Federal government has ruled that for certain Federal income tax purposes, patronage dividends by cooperatives can and should be treated as deferred price adjustments and not as gross income received by cooperatives, irrespective of State statutes. *Farmers Cooperative Co. v. Birmingham*, 86 F. Supp. 201 (D.C. N.D. Iowa, 1949) and cases and authorities cited. See also *Pomeroy Cooperative Grain Co. v. Commissioner*, 31 T.C. 674, 684-6 and authorities cited. In fact, one of the principal witnesses for the dealer cooperatives admitted that patronage dividends by cooperatives, presumably including these cooperatives, are not taxable as income to the cooperative, presumably because of this very principle of deferred price adjustment.

It is further to be noted that the Federal power to regulate interstate commerce is complete and perfect and supersedes and is paramount over any inconsistent action by any State. Congress has delegated to the Secretary this Federal power to regulate the handling of serum and virus and has specifically authorized the issuance of a regulatory order having the force and effect of law which may compel fully effective and realistic price posting and may prohibit unfair methods of competition and unfair practices on a national basis and as a matter of national concern.

The dealer cooperatives further contend that patronage dividends by such cooperatives are desirable as an economic force to reduce prices and margins of profit throughout the industry. The short answer here is that Congress has indicated that an effective price posting regulatory order should be authorized in the public interest to prevent demoralization in an industry in which adequate supplies and orderly marketing are essential to the nation. This record clearly does not establish that such a price posting plan should be abolished and if there is to be mandatory price posting it should be mandatory and fully effective for all. As previously shown, the payment of patronage dividends by the dealer cooperatives is essentially incompatible with

an effective and equitable price posting program in this industry.

Moreover, this argument assumes that patronage refunds are necessarily effective as a price lowering device and that price reductions are necessarily desirable in this industry to the exclusion of other important considerations. The record does not show that the dealer cooperatives have in fact operated to reduce prices generally. But assuming, argendo, that patronage refunds could have this price effect, the "advantages" derived from patronage refunds logically should then be extended to all handlers, whether cooperative or not. An extension of such a privilege to all handlers posting "prices" would soon lead to complete demoralization and destruction of the price posting plan, for no price posted would be a firm price in that it would always be subject to subsequent adjustments in undisclosed and unascertainable amounts. Moreover, it seems obvious that any such general price lowering "objective" probably could be accomplished more directly and effectively by removing all Federal regulation and permitting completely uncontrolled pricing (and price cutting) by all handlers—the very situation that Congress sought to alleviate or prevent by enacting this legislation. Of course, prices should be reasonable; and Congress evidently concluded that an effective price posting order would accomplish that objective, consistent with other considerations of vital importance to this industry, the swine raising industry and to the national interest.

The dealer cooperatives also contend that to preclude such cooperative "dividends" would be to prohibit an otherwise lawful business practice and would violate "due process." The short answer is that otherwise lawful business practices may be made unlawful by Federal regulation. In fact, the very concept of mandatory price posting necessarily impinges on otherwise lawful business practices. In the absence of a mandatory price posting plan imposed by law, any handler would have an absolute right to sell at any price he pleased, subject only to possible application of the Federal antitrust laws. Similarly, other business practices, such as those here presented, which are inconsistent with or designed to evade or avoid mandatory and effective price posting may be prohibited as a matter of Federal law and jurisdiction over interstate commerce.

In view of the foregoing, it is concluded that the order should be amended to prohibit specifically and clearly the allowance of patronage dividends or refunds or similar discounting practices by cooperatives or similar organizations composed of such proprietary dealers, wholesalers or manufacturers, just as similar discounts, patronage dividends, etc., are now prohibited for other handlers; and to provide for declaring ineffective a posted price which is improper.

It is, however, further concluded that farmer cooperatives, as defined in the proposed amendment, which are organizations composed, controlled by and operated for the benefit of farmer con-

sumers, should be allowed to continue to pass on patronage dividends through their cooperative channels to consumer farmers. Such cooperatives purchase the products for distribution to and utilization by their farmer-member patrons. After such purchase, the products do not again enter the usual competitive trade channels for resale to farmers as do those products purchased by a member of the dealer cooperatives. Also, unlike the dealer cooperatives, the farmer cooperatives assure that dividends, if any, enure to swine raisers for whose direct benefit the act was enacted by Congress. The dealer cooperatives provide no such assurance. In fact, according to the testimony of a witness for the dealer cooperatives, it would be unethical for a member veterinarian to pass on to the farmer any portion of his patronage dividends. Finally, such farmer cooperatives have operated under the order for the benefit of farmers during the entire history of the program and have not caused instability or disruption in the industry, nor is there any indication that this will occur in the foreseeable future. Statistical evidence of record shows that farmer cooperatives' percentage of the total sales of all wholesalers has dropped consistently since 1950 while Iowa Cooperative Association (Diamond) has had a phenomenal increase in comparative sales rating among manufacturers since 1952, the first year of operation. Such statistics are indicative of the relative competitive force exerted in the industry by the two types of cooperatives. The reasons which compel the amendment of the order with respect to the payment of patronage dividends by dealer cooperatives and similar groups thus do not appear to exist as to farmer cooperatives. No showing has been made of any need to change their present status under the order to protect the integrity of the basic regulatory plan and effectuate the declared policy of the act.

Certain witnesses for the dealer cooperatives attempted to show that mandatory serum reserve provisions are no longer necessary in the order. These contentions were disputed by other witnesses and at least one of the witnesses for the dealer cooperatives admitted that a serum reserve was both desirable and necessary but disputed the need of requiring it by order provisions. The need for these reserve provisions in the order was not at issue in the proceeding, for there was no proposal to delete or modify them. It is, therefore, unnecessary and improper to resolve this question in this proceeding. It is, however, appropriate to observe (1) that as recently as 1958 Congress reenacted and reapproved the serum reserve provisions of the act, (2) that shortly thereafter the order provisions were modified and reissued after hearing and industry approval, to conform with the amendment of the act, and (3) that experience of the Department has not demonstrated that an adequate reserve of serum is no longer desirable or necessary to guard against a possible epizootic of serious proportions.

2(b) *Merger of buyer classifications.* Also necessary to effective classified price

posting are regulatory provisions which adequately assure (1) that each buyer is classified properly and clearly in only one class and (2) that each seller who posts prices can offer the commodity to a particular buyer at only one posted price instead of several such prices. If buyers or sellers can avoid the effect of classified price posting in either of the two indicated ways, i.e., by "merging" or obscuring the buyer classifications which underly the whole price posting plan, in a way to obtain either a buying or selling advantage over others, it injures others, impairs the effectiveness of the regulatory plan and tends to create disorderly marketing conditions, contrary to the objectives of the act and the order.

An undesirable "merger" of buyer classifications occurs when several dealers form a group purchasing organization to qualify as a "wholesaler," thereby obtaining serum and virus for the component dealers at the wholesaler price for which the dealers would not otherwise qualify in view of their actual competitive level of operations. It is evident that such an arrangement would place such dealers in a more favorable competitive position than other dealers who must purchase at the dealer price. In reality, such a dealer organization remains a group of individual dealers who should be treated as such—and not as wholesalers—for classified price posting purposes.

Another illustration of the same general problem is where a wholesaler purchases or controls a group of dealers, as, for example, a chain of drug stores, or conversely, where such a chain acquires or controls a "wholesaler." Here again, a "merger" of classifications occurs for the purpose of obtaining wholesaler prices for dealers. These are some illustrations of undesirable mergers of classification but are not exclusive. The problem generally exists whenever dealers own or control wholesalers or wholesalers own or control dealers, directly or indirectly. The end result of such mergers of classification is to create disorderly marketing. Unless corrected, it gradually erodes away the effectiveness of the price posting provisions of the order.

In the past, where it became known to the agency that a wholesaler applicant was in fact composed of or substantially controlled by dealers who sought to attain wholesaler status, the agency has denied such applications on the ground that the applicant was in fact a dealer organization seeking preferred buying status, and should not be entitled to such status. Wholesaler applications likewise have been denied where it appeared that the applicant owned or controlled dealers or utilized them as agents or branch houses. Similarly, previously qualified wholesalers have been deleted from the wholesaler list where it appeared that such circumstances existed. Through administrative action over a long period of time, the order thus has been interpreted and applied as not permitting a merger of buyer classifications.

It was proposed at the hearing that such business arrangements be outlawed

and absolutely prohibited by the order, i.e., that all handling between the affected parties be prohibited in such circumstances. Although much can be said in support of such a requirement, it appears unnecessary to go that far at this time. Instead, it is concluded that the incentive for such merger of buyer classifications can be removed by providing specifically that if and when it occurs, wholesaler status will be denied or lost, as the case may be. The order should be amended accordingly to make specific provision for the denial of wholesaler status in the circumstances outlined above. However, this should not apply to bona fide farmers cooperative associations for the same reasons heretofore stated in connection with patronage dividends.

However, there are several wholesaler corporations in the industry, whose stock is sold to the general public. In these circumstances, the corporation has no control over purchases of its stock by specific persons. In order that a corporate wholesaler not be subject to reclassification by reason of possible purchase of its stock for investment purposes, provision should be made exempting such corporation from the provision regarding an interest being owned in it by other persons coming within a different class of buyer, provided that such combined total interest does not exceed 10 percent of the total outstanding stock of all classes of such corporation. It is believed that the 10 percent ownership provision would amply cover any such incidental ownership of stock for investment purposes.

2(c) *Manufacturer-buyer relationship.* Somewhat similar problems may exist in the relationship between manufacturers and dealers. Here, too, several dealers can band together to produce their own serum and virus for sale to themselves. In this situation, there is no direct merger or consolidation of buyer classifications, because "manufacturer" is not a buyer classification for present price posting purposes. Therefore, if any such dealer-manufacturer arrangements present a regulatory problem, such problem cannot be solved by the simple incentive removing device herein provided for mergers of two buyer classifications, i.e., to deny the preferred buyer classification. This is so because in manufacturer-dealer combinations there is no preferred buyer classification to deny.

This necessarily means that more drastic measures would be required to cope with ownership or control of manufacturers by dealers or wholesalers. These might include a direct prohibition of any sales by a manufacturer to any such interested dealer or wholesaler, or an absolute prohibition against handlings by certain business organizations which necessarily contemplate such an arrangement. Other controls of equally drastic nature might be required if the problem becomes a serious one.

However, the present hearing record discloses no need to take such drastic action at this time with reference to dealer or wholesaler owned or controlled manufacturers. A portion of the stock of two or three small proprietary corpo-

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rate manufacturers is owned by dealers, but the percentage of such stock ownership in such corporations was not disclosed on the record. This practice of owning stock in proprietary corporate manufacturers by members of the buyer class does not appear to be a disturbing element in the marketing of the products. Such proprietary manufacturers pay dividends on the basis of stock ownership only. Opinion was expressed that such ownership should not be permitted but the record does not disclose facts which would support a conclusion that unfair competitive advantage was gained by such manufacturers or such owners of stock because of such ownership. It is conceivable that such practices could adversely affect the regulatory scheme under the order should they be abused but in that event the amendatory processes are available to correct the situation.

The record does show that patronage refunds by certain dealer cooperative manufacturers are disruptive but this will be corrected by prohibiting such patronage refunds. Whether or not the restriction of ownership of stock or membership in a manufacturer to a particular buying class or the restriction of sales to such members in and of itself has been disruptive to orderly marketing and to the regulatory scheme of the order cannot be determined with sufficient certainty from the information contained in the present hearing record to warrant action as drastic as that proposed. Evidence regarding such ownership and sales restriction was inextricably connected with the deleterious effect of the payment of patronage dividends to members of such an organization. It would appear that restriction of ownership of stock or memberships in a manufacturer to a particular buying class only and the restriction of sales to such members, under certain circumstances, could result in disorderly marketing and constitute unfair competition. However, should such practices under the recommended order create disorderly marketing, unfair competition, or result in a breaking down of the regulatory scheme under the act and order, future amendatory proceedings are available for purposes of remedying the situation.

The record does show, however, that certain other practices between manufacturers and certain buyers should be controlled more rigidly. Certain manufacturers seeking to obtain selling advantages have engaged in practices which also tend to a breakdown of the classification scheme. These practices usually take the form of utilizing a buyer as an agent or distributional outlet, but can also take the form of control over such a buyer. Where a manufacturer appoints a wholesaler as his agent or branch office, it places the wholesaler in the position of being able to offer two prices for the same commodity to the same buyer, one price in his capacity as a wholesaler, the other in his representative capacity for the manufacturer. This gives the associated manufacturer and wholesaler a competitive advantage over their respective manufacturer and wholesaler competitors who can offer

only one price for a product for each buyer classification. By utilizing two prices, such "agency" arrangements can be employed to offer either of the two prices at will, on a geographic or any other basis, to lure business from competitors or otherwise employ selective pricing for competitive advantage. Such a competitive advantage based on being able to offer two or more available prices to the same buyer is clearly contrary to the principle and purposes of classified price posting and should be prohibited. The effectiveness of classified price posting also tends to break down where manufacturers own or control wholesalers who purport to post their own different posted prices but tend to divert business directly to the manufacturer if the occasion warrants.

Similar problems exist where manufacturers utilize or control dealers in such fashion. By either applying or not applying the "agency" device to an actual dealer situation, the manufacturers can offer either the consumer or dealer posted price, depending on competitive advantage, even though the physical distribution of the serum and virus through the dealer to the consumer is precisely the same in either case. The legalistic agency device should not be available to enable the offering of two prices at will for essentially the same sale to the consumer through a dealer.

Accordingly, it is concluded that manufacturers should be prohibited from selling serum and virus through agents, representatives or branch houses which also are wholesalers or dealers or selling serum or virus to wholesalers or dealers in which the manufacturer has an ownership interest. Because the manufacturer has complete control of its own investments no minimum percentage of stock ownership need here be specified.

Rulings on proposed findings and conclusions. At the conclusion of the hearing of July 24, 1956, briefs were filed on behalf of the Control Agency and Armour Veterinary Laboratories, and at the conclusion of the reopened hearing of July 21, 1958 and December 1, 1958, briefs were filed on behalf of Allied Laboratories, Inc., et al.; Baldwin Laboratories, Inc.; Iowa Cooperative Association, et al., and Iowa Farm Supply Company. The proposed findings and conclusions contained therein have been discussed or covered generally in this decision and all were carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinafter set forth. To the extent that the proposed findings and conclusions contained in the aforesaid briefs are inconsistent with the findings and conclusions contained herein such proposed findings and conclusions are denied.

General findings. Upon the basis of the evidence adduced at the hearings, and the records thereof, it is hereby found that:

(1) The said marketing agreement as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby proposed to be further amended,

regulates the handling of anti-hog-cholera serum and hog-cholera virus in the same manner as, and contains only such terms and conditions as are contained in the said marketing agreement upon which hearings have been held.

Recommended amendments to the marketing agreement and order, as amended. The following proposed amendments to the marketing agreement and order, as amended, are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The regulatory provisions of the said agreement are identical with those contained in the following order.

§ 131.8 [Amendment]

1. Amend § 131.8 by substituting (1) and (2) for (a) and (b) respectively, and place (a) just prior to the first sentence of the section and add the following at the end of such section:

(b) Notwithstanding the provisions of paragraph (a) of this section a person shall not be classified as a wholesaler, or shall be deleted from the list of qualified wholesalers maintained by the Control Agency, if such person (1) owns an interest, in whole or in part, in a dealer, or (2) appoints or utilizes any dealer as his agent or distributional outlet, or (3) where an interest in such person is owned by any dealer or dealers: *Provided, however,* That if such person is a corporation, ownership by dealers of a combined interest not to exceed 10 percent of the total outstanding stock of all classes of such corporation shall not disqualify the corporation for wholesaler status: *Provided, further,* That this paragraph shall not apply to a farmer cooperative association.

2. Add a new § 131.19 to read as follows:

§ 131.19 Farmer Cooperative Association.

"Farmer cooperative association" as used in this part means a cooperative association as defined in 12 U.S.C. § 1141j (a), including a federation of such cooperative associations and any corporate organization, organized under a cooperative law or operating on a cooperative plan, which is owned and controlled, directly or indirectly, by such cooperative associations or a federation of the same.

3. Amend § 131.51 to read as follows:

§ 131.51 Filing of price list; suspension and cancellation thereof.

(a) Except as provided in § 131.57, each manufacturer and wholesaler handler shall file with the Secretary and the control agency a separate list of his selling prices in the United States, including terms of sale and discounts, to each class of buyer defined in this subpart or under the provisions thereof, other than those specified in § 131.55. Each such handler's prices, discounts, and terms of sale shall be uniform for all buyers in each classification of the trade as defined by the control agency pursuant to this subpart.

(b) Each manufacturer and wholesaler handler's prices shall be deemed not to be uniform for all buyers in each

classification of trade if such handler pays, or agrees to pay, to any purchaser of serum or virus patronage dividends or patronage refunds based on such purchases; or pays, or agrees to pay, to any purchaser of serum or virus, refunds based on the volume of purchases of serum or virus; or pays or agrees to pay, to any purchaser any other discount or refund not immediately ascertainable from a posted price at the time of sale: *Provided, however,* That a farmer cooperative association may pay patronage dividends.

(c) If the Secretary has reason to believe that any price list, term of sale or discount, in whole or in part, violates the provisions of this section he may immediately suspend the effectiveness of such price list, term of sale or discount, in whole or in part, pending an investigation and opportunity to be heard has been afforded the handler whose price filing is questioned, the Secretary finds from the facts presented during such investigation that such price list, term of sale or discount, in whole or in part, violates the provisions of this section.

4. Amend § 131.54 to read as follows:

§ 131.54 Offers, contracts, sales.

Except as provided in § 131.57, each manufacturer and wholesaler handler shall make no sales unless he has an effective price list, including discounts and terms of sale, as set forth in § 131.51, filed with the control agency. No manufacturer or wholesaler handler shall make any bid, or offer to sell, or enter into an agreement or contract to sell serum or virus, or in any manner sell serum or virus at prices, discounts, or terms of sale different from those set forth in his filed price list which is effective at the time any such bid, offer, agreement, contract, sale, or delivery is made. No manufacturer or wholesaler handler shall pay, or agree to pay, to any purchaser of serum or virus, patronage dividends or patronage refunds based on such purchases; or shall pay, or agree to pay, to any purchaser of serum or virus refunds based on the volume of purchases of serum or virus; or shall pay, or agree to pay, to any purchaser any other discount and refund not immediately ascertainable from a posted price at the time of sale: *Provided, however,* That a farmer cooperative association may pay, or agree to pay, patronage dividends.

manufacturer at a negotiated price. Such purchaser shall not sell or offer for sale the purchased product to wholesalers, dealers or consumers at prices (including discounts and terms of sale) lower than the currently effective posted prices for such classes of purchasers of the manufacturer from whom he purchased such product: *Provided, however,* That in the event such purchaser purchases the same product from two or more manufacturers said purchaser shall not sell or offer for sale such purchased product to wholesalers, dealers or consumers at prices (including discounts and terms of sale) lower than the highest effective prices currently posted by his suppliers for wholesalers, dealers, and consumers. The prices, discounts and terms of sale filed by a manufacturer-buyer for serum or virus shall be uniform for all buyers in each classification of the trade regardless of whether it is of his own manufacture or has been purchased from one or more other manufacturer-handlers.

6. Add a new § 131.58 to read as follows:

§ 131.58 Manufacturer handling.

A manufacturer handler is prohibited from selling serum or virus to or through any wholesaler or dealer which such manufacturer appoints or utilizes as his agent or distributional outlet for the distribution of serum or virus, or in which such manufacturer owns an interest.

7. Add a new § 131.60 to read as follows:

§ 131.60 Patronage dividends and refunds.

The payment of, or agreement to pay, patronage dividends or patronage refunds based on purchases of serum or virus to the purchaser thereof, or the payment of, or agreement to pay, refunds based on the volume of purchases of serum or virus to the purchaser thereof, or the payment of, or agreement to pay, to any purchaser of serum or virus any other discount or refund not immediately ascertainable from the applicable posted price at the time of sale by manufacturer and wholesaler handlers is prohibited: *Provided, however,* That a farmer cooperative association may pay, or agree to pay, patronage dividends.

§ 131.71 [Amendment]

8. Add a new paragraph (j) to § 131.71 to read as follows:

(j) The payment of, or agreement to pay, patronage dividends, patronage refunds, refunds based on the volume of purchases of serum or virus or other discounts, or refunds not immediately ascertainable from a posted price at the time of sale, excepting, however, the payment of patronage dividends by a farmer cooperative association.

Done at Washington, D.C., this 3d day of December 1959.

L. C. HEEMSTRA,
Director, Animal Inspection
and Quarantine Division.

[F.R. Doc. 59-10353: Filed, Dec. 7, 1959;
8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Economic Regs.; Docket 110261]

I 14 CFR Part 221

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND OF FOREIGN AIR CARRIERS

Notice of Proposed Rule Making

DECEMBER 2, 1959.

Notice is hereby given that the Civil Aeronautics Board has under consideration certain amendments to Part 221 of the Economic Regulations which would permit carriers to authorize corporations to act as their tariff agents.

The details of the proposed change are set forth below in the Explanatory Statement and the proposed amendments are set forth below in the proposed rule. This regulation is proposed under the authority of sections 204(a) and 403 of the Federal Aviation Act of 1958 (72 Stat. 743, 758; 49 U.S.C. 1324, 1373).

Interested persons may participate in the proposed rule making through submission of seven (7) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before January 6, 1960, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available on or after January 8, 1960, for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW, Washington, D.C.

By the Civil Aeronautics Board.

[SEAL]

MABEL McCART,
Acting Secretary.

EXPLANATORY STATEMENT

Section 221.220 of Part 221 states that only an individual person may be the recipient of a power of attorney to act as an agent or alternate agent to issue and file with the Board tariff publications of air carriers or foreign air carriers.

Barrington's Traffic Service, Inc., a New York corporation which provides certain services for domestic and foreign air carriers in connection with tariff matters, and William D. Barrington, a tariff publishing agent for a number of domestic and foreign air carriers, have petitioned the Board for amendment of Part 221 to permit carriers to give tariff agent powers of attorney to corporations.

Petitioners have asserted that carriers' dependence upon an individual agent can cause difficulties, which could be avoided by permitting corporations to act as tariff agents. Petitioners allege that the current provision in Part 221 for an alternate individual agent in the event of disability or death of the principal agent does not afford a workable solution because it would be uneconomic and otherwise unreasonable to retain such a person on a standby basis, and without such arrangement the alternate

§ 131.57 Purchases by manufacturers.

A manufacturer of serum or virus may purchase serum or virus from another

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might not be available or willing to assume the agent's responsibilities and functions when necessary. Petitioners also state that the current provisions in this Part for revocation and reissuance of powers of attorney cannot reasonably be regarded as a practical means of responding to the problem. They assert that foreign air carriers are located all over the world, that there are language barriers, and that differences in local laws regarding powers of attorney cause difficulty. Given sufficient time, new powers can be obtained but in the meantime action requiring a tariff agent could not be effected. Petitioners further assert that necessary financing to cover the cost of equipment (e.g., IBM and other time saving equipment) and other capital expenses required to develop and properly perform tariff services for a substantial number of carriers can be better obtained through the device of a corporate agent. They say that an individual would be less than prudent to invest substantial capital in a purely personal service since he could have no assurance that upon his death or disability the powers would not be revoked and then granted to some other agent or alternate. Petitioners also say that financial institutions advise that they are not inclined to provide funds to the corporate petitioner as its business is dependent upon powers of attorney which it does not hold and over the exercise of which, as a matter of law, it has no control.

Petitioners further point out that the rules of the Interstate Commerce Commission permit corporate tariff agents.

Upon review of the entire petition and all the arguments presented therein the Board has determined that sufficient reasons have been disclosed in support of the relief requested to justify the institution of a public rule making proceeding. The Board will consider comments received and will make its decision in the light of such comments.

PROPOSED RULE

It is proposed to amend Part 221 of the Economic Regulations (14 CFR Part 221) as follows:

1. Amend the first sentence of § 221.11 to read: "An agent may issue and file, in his or its own name, tariff publications naming local rates or fares and/or joint rates or fares, and provisions governing such rates or fares, for account of carriers participating in such tariff publications, under authority of their powers of attorney given to such issuing agent as provided in § 221.220."

2. Amend paragraph (b) (6) of § 221.22 by adding a second sentence to read: "If the tariff is issued by a corporate agent, the name, title and business address of the official designated by the corporation to issue and file tariffs in the corporation's name shall also be shown directly above the name, title and address of the corporate agent."

3. Amend paragraph (a) (12) of § 221.31 by inserting a new sentence after the first sentence to read: "If the tariff is issued by a corporate agent, the name, title and business address of the official designated by the corporation to

issue and file tariffs in the corporation's name shall be shown."

4. Amend paragraph (b) (9) of § 221.112 by adding a third sentence to read: "If the supplement is issued by a corporate agent, the name, title and business address of the official designated by the corporation to issue and file tariffs in the corporation's name shall be shown."

5. Redesignate paragraphs (b) and (c) of § 221.220 as (c) and (d), respectively, amend paragraph (a), and insert a new paragraph (b), as follows:

(a) *Prescribed form of power of attorney.* A power of attorney prepared in accordance with the applicable form set forth in § 221.244 shall be used by a carrier to give authority to an agent and (in the case of the agent being an individual) such agent's alternate to issue and file with the Board tariff publications which contain local or joint rates, fares, or charges, including provisions governing such rates, fares or charges, applicable via and for account of such carrier. Agents may be either natural persons or corporations. The authority conferred in a power of attorney may not be delegated to any other person.

(b) When a corporation has been appointed as agent it shall forward to the Board a certified excerpt of the minutes of the meeting of its Board of Directors designating by name and title the individual officer responsible for issuing tariffs and filing them with the Board. When such an issuing officer is replaced the Board shall be immediately notified in like manner of his successor. An officer or employee of an incorporated tariff-publishing agent may not be authorized to act as tariff agent in his individual capacity. Every tariff issued by a corporate agent shall be issued in its name as agent.

6. Amend paragraph (a) (1) (v) of § 221.224 by adding a second sentence to read: "A new corporate agent shall also file with the Board a certified excerpt of the minutes of the meeting of its Board of Directors showing the name and title of its officer designated to issue and file tariffs in the corporation's name."

7. Amend paragraph (b) (6) of § 221.240 by adding a second sentence to read: "In the case of a corporate agent the signature of the officer of the corporation authorized by it to issue and file tariffs with the Board in its name shall appear at this point."

8. Amend paragraph (b) (9) of § 221.241 by adding a second sentence to read: "In the case of a corporate agent the signature of the officer of the corporation authorized by it to issue and file tariffs with the Board in its name shall appear at this point."

9. Amend paragraph (b) (6) of § 221.244 by adding a fourth sentence to read: "In the case of a corporate agent this entire paragraph of the form shall be omitted."

10. Amend paragraph (b) (5) of § 221.245 by adding a second sentence to read: "In the case of a corporate agent all reference to an alternate attorney as agent shall be omitted."

[F.R. Doc. 59-10346; Filed, Dec. 7, 1959; 8:49 a.m.]

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DEPARTMENT OF THE TREASURY

Foreign Assets Control

HAIR OF CERTAIN ANIMALS, COTTON AND SILK WASTE AND CARPET WOOL; IMPORTATION FROM COUNTRIES NOT IN AUTHORIZED TRADE TERRITORY

Applications for Licenses

Notice is hereby given that the Treasury Department is now prepared to consider applications for licenses under the Foreign Assets Control Regulations (31 CFR 500.101 to 500.808) for the importation during 1960 of limited quantities of the following commodities from countries (other than Communist China and North Korea) not in the authorized trade territory:

Badger hair.

Camel hair.

Carpet wool.

Cotton waste.

Goat hair.

Horse mane hair, horse tail hair and other horse hair.

Silk waste.

Yak hair.

Applications must be filed on or before December 21, 1959.

Any person interested in importing any of the above-named commodities from a country (other than Communist China and North Korea) not in the authorized trade territory may obtain additional information and license application forms from the Foreign Assets Control, Treasury Department, Washington 25, D.C.

Attention is directed to the fact that the term "authorized trade territory" is defined in § 500.322 of the Foreign Assets Control Regulations and that the term "countries (other than Communist China and North Korea) not in the authorized trade territory" as used herein includes Albania, Bulgaria, Czechoslovakia, the Eastern Zone of Germany, the Eastern Sector of Berlin, Estonia, Hungary, Latvia, Lithuania, Outer Mongolia, Poland, Rumania, the Union of Soviet Socialist Republics, and Viet-Nam (only those areas under Communist control).

[SEAL]

ELTING ARNOLD,
Acting Director,
Foreign Assets Control.

[F.R. Doc. 59-10343; Filed, Dec. 7, 1959;
8:48 a.m.]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Notice of Time Limit for Applications for Approval of Certain Health Benefits Plans

Under the provisions of the Federal Employees Health Benefits Act

of 1959, the Civil Service Commission has determined that applications by groups wishing to offer group-practice prepayment health benefits plans and individual-practice prepayment health benefits plans under the Act, which are received before January 1, 1960, will be considered for approval for the first contract period under the Federal Employees Health Benefits Program. Applications received after December 31, 1959, will be considered for approval for subsequent contract periods.

There is no prescribed form for application. The Commission will consider an expression of interest in the form of a letter addressed to it as an application.

Applications for approval of employee organization health benefits plans may not, under section 2(i) of the Federal Employees Health Benefits Act of 1959, be considered for approval unless received before January 1, 1960.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] W.M. C. HULL,
Executive Assistant.

[F.R. Doc. 59-10344; Filed, Dec. 7, 1959;
8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12586-12589; FCC 59M-1627]

M.V.W. RADIO CORP. ET AL.

Memorandum Opinion and Order Covering Pre-Hearing Conference

In re applications of M.V.W. Radio Corporation, San Fernando, California, Docket No. 12586, File No. BP-10888; KGB, Incorporated (KGB), San Diego, California, Docket No. 12587, File No. BP-11103; Robert S. Marshall, Newhall, California, Docket No. 12588, File No. BP-11705; William H. Wilson and Shirley Ann Wilson d/b/a Wilson Broadcasting Company, Oxnard, California, Docket No. 12589, File No. BP-11911; for construction permits.

1. On June 19, 1959, the Commission released a memorandum opinion and order which set aside an Initial Decision of the Examiner released May 25, 1959 (FCC 59D-51). This order reversed a ruling of the Examiner refusing M.V.W. Radio Corporation and Wilson Broadcasting Company additional time within which to file engineering exchange exhibits, reopened the record and remanded the matter to the Examiner for further proceedings. A conference was held on November 5, 1959, looking toward further proceedings. Matters covered at the conference fall into two general categories: (1) status of the applicants with respect to the issues and (2) future procedural steps to be taken in the proceedings.

2. As to the first of these subjects, the Examiner ruled as follows: The remand order does not direct that the hearing be tried *de novo*. The bulk of KGB's case has been received in evidence. Except for the non-engineering aspects of

KGB's showings, further cross-examination of that party's witnesses will not be permitted since such opportunity was afforded and declined by all other parties at the session held on February 24, 1959.¹ KGB will be permitted to supplement the showing previously made by it under Issue 12, since at the hearing at which it presented its showings on all issues, that issue was, to all intents and purposes, rendered moot by the announced intention of M.V.W. and Wilson to stand on an amended engineering showing which the Examiner had previously ruled would not be received in evidence.²

3. After considerable discussion on the record, it is the Examiner's understanding that all parties to the proceeding have agreed that the following procedural steps will be effected during the future course of this proceeding on the dates specified:

January 15, 1960: M.V.W. and Wilson will furnish copies of their entire direct presentations to all other parties. KGB will furnish to all other parties the supplemental evidence it intends to present in response to Issue 12.

January 29, 1960: There will be held an informal engineering conference. At this conference the engineers for the other parties will ascertain from M.V.W. and Wilson such background facts concerning the engineering showings of M.V.W. and Wilson as, in their judgment, is required in order to recommend correction or modification of the engineering showings of M.V.W. or Wilson or as is necessary to provide a basis for determining whether or not objection shall be made to the admission into evidence of engineering showings of M.V.W. and Wilson. In short, at this conference the engineers are to dispose of those technical questions concerning the composition of M.V.W. and Wilson's engineering showings as would normally be asked through counsel as qualifying questions or cross-examination at open hearing.

February 29, 1960: The entire direct presentation of M.V.W. and Wilson will be "frozen," as will the direct supplemental showings of KGB in response to Issue 12. By "frozen" is meant—not subject to change or alteration. The only changes that will be permitted after this date are those occasioned by inadvertent error committed notwithstanding the exercise of reasonable diligence.

March 14, 1960: Further pre-hearing conference. This conference, like all formal conferences, will be a part of this hearing record. At this conference the Examiner will rule on all objections to the admissibility of the direct presentations to be tendered by M.V.W., Wilson and KGB. All parties will make known to the three applicants at this conference those principals of the applicants' organizations they desire to have present at the hearing for cross-examination.

April 1, 1960: Hearing.

It is ordered, This 1st day of December 1959, that the rulings set forth in

¹ It should be noted that counsel for Wilson and M.V.W. took vigorous exception to this ruling and indicated intention to take appeal from it to the Commission. At the conference the Examiner deferred final ruling on the matter until after he had again reviewed the record on the subject. He has again reviewed the record and finds that it fully supports the ruling noted above.

² Issue 12 directs determination as to which of the operations proposed would best provide a fair, efficient and equitable distribution of radio service.

paragraph 2 above are hereby formalized and that the procedures set forth in paragraph 3 above shall be effected.

Released: December 2, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10350; Filed, Dec. 7, 1959;
8:49 a.m.]

[Docket No. 13274; FCC 59-1180]

WOOD BROADCASTING, INC. (WOOD-TV)

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of: WOOD Broadcasting, Inc. (WOOD-TV), Grand Rapids, Michigan, Docket No. 13274, File No. BPCT-2673; for construction permit to change existing facilities.

1. The commission has before it for consideration (1) a "Protest and Petition for Reconsideration" filed on October 28, 1959, pursuant to sections 309(c) and 405 of the Communications Act of 1934, as amended, by Television Corporation of Michigan, Inc., (protestant), permittee of Television Broadcast Station WILX-TV, Channel 10, Onondaga, Michigan, directed against the Commission's action of September 22, 1959, granting without hearing the above-captioned application; (2) an "Opposition to Protest and Petition for Reconsideration" filed on November 9, 1959, by WOOD Broadcasting, Inc., licensee of Television Broadcast Station WOOD-TV, Channel 8, Grand Rapids, Michigan (WOOD-TV); and (3) a "Reply by Television Corporation of Michigan, Inc., to Opposition to Protest and Petition for Reconsideration" filed on November 16, 1959, by the protestant.

2. On July 22, 1959, WOOD-TV filed an application (BPCT-2673) to change its transmitter location from its present site 10 miles northeast of Grand Rapids to a site 19 miles southeast of Grand Rapids, make changes in its antenna system and other equipment, and increase antenna height above average terrain by two feet. The new site is approximately 25 miles directly south of the present site and will improve WOOD-TV's signal to the south in the direction of Kalamazoo and Battle Creek and decrease it to the north of the present WOOD-TV transmitter site.

3. The protestant claims standing by virtue of sections 309(c) and 405 of the Communications Act of 1934, as amended, as the licensee of Television Broadcast Station WILX-TV, Channel 10, Onondaga, Michigan. Protestant justifies its claim to standing by alleging that, as a result of the proposed move, the overlap of the service areas of WILX-TV and WOOD-TV will be substantially increased, and that this will result in increased competition for audiences and revenues, to the economic detriment of WILX-TV.

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4. In support of its protest and petition for reconsideration, the protestant makes a number of allegations as to why it believes the Commission erred in granting the above-captioned application and why it believes a grant of the subject application is not in the public interest. Therefore, the protestant requests that the Commission reconsider and set aside the protested grant and designate it for hearing, or, in the alternative, grant the protest, designate the application for evidentiary hearing on seven proposed issues, placing the burden of proceeding with the introduction of evidence and the burden of proof on the applicant, name protestant as a party, and postpone the effective date of the grant to the effective date of the Commission's decision after hearing. Protestant alleges that the proposed move will create a "white area" of 5.3 square miles in which 604 persons will lose their existing Grade B service from WOOD-TV, leaving them with no service; WOOD-TV's move will not provide a first service to any existing white area; a "gray" area will be created in which an area of 1,506 square miles, containing 43,172 persons, will lose one of two existing services, depriving an area of 371 square miles of Grade A service and depriving an area of 1,135 square miles of Grade B service; the area which will gain a compensating Grade B service from the proposed move already receives multiple Grade B services, with the exception of an area of 114 square miles, containing 7,310 persons, and this area already receives one Grade A service; and that the proposed move would degrade WOOD-TV's service to the Muskegon area, reducing its present city grade or near city grade signal to a Grade B signal. Protestant also claims that the subject application contains misleading statements concerning the extent to which Television Station WWTW, Channel 7, Cadillac, Michigan, and Television Station WPBN-TV, Channel 7, Traverse City, Michigan, will continue to provide service to the area to be vacated by WOOD-TV. Finally, protestant states that WOOD-TV's only stated justification for the proposed move is to improve reception in the Grand Rapids metropolitan area, but that it is not at all certain that the proposed move will have this effect.

5. WOOD-TV's opposition challenges protestant's standing primarily on the basis that its allegations of economic injury are based on the improvement of a competitive signal, rather than the establishment of a new competitive signal. WOOD-TV admits protestant's allegation that a "white" area and a "gray" area will be created, but argues that these losses are de minimis, that the quality of service to Grand Rapids will be improved and that a grant of the subject application will allow WOOD-TV to serve 115,000 persons more than it serves from its present site. As to the loss of signal strength in the Muskegon area, WOOD-TV admits that the signal to Muskegon will be weaker, but argues that Muskegon will still receive an adequate signal. Finally, WOOD-TV states that its application properly

stated the facts which protestant alleges are misleading. WOOD-TV argues that the Commission should either dismiss protestant's petition for lack of standing, pursuant to § 1.193(a) (1) and (2) of the Commission's rules, or designate it for oral argument only, on the basis that even if the facts alleged by protestant were proved and all relevant questions of substance resolved in favor of protestant, no grounds would exist for setting aside the grant.

6. Protestant's reply restates the basis of its claim to standing, challenges the propriety of WOOD-TV's claim that the white area created is de minimis, asserts that WOOD-TV has the burden of proving that the loss of service which will be created is offset by the improvement of its service elsewhere, and generally repeats the allegations contained in its protest.

7. In view of the fact that the protestant is the permittee of Television Station WILX-TV in Onondaga, Michigan, and has alleged facts indicating that as a result of the grant of the above-captioned application it will be economically injured by the increased competition, because of loss of advertising revenues resulting from the competition of WOOD-TV, we find the protestant to be a "party in interest" within the meaning of section 309(c) of the Communications Act of 1934, as amended, and a "person aggrieved or whose interests are adversely affected" within the meaning of section 405 of said Act. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470.

8. The issues specified by protestant are as follows:

(1) To determine the areas and populations which would lose principal city service, Grade A and Grade B service from WOOD-TV, and the other services available to these areas and populations.

(2) To determine the areas and populations which would gain principal city service, Grade A and Grade B service from WOOD-TV, and the other services available to these areas and populations.

(3) To determine whether the operation of WOOD-TV at its proposed site would provide a more fair, equitable and efficient distribution of television service than the operation of WOOD-TV at its present site.

(4) To determine whether a grant of the application would be consistent with the provisions of § 3.607 of the Commission's rules and the principles in the Commission's Sixth Report and Order.

(5) To determine whether the grant would impair the ability of WILX-TV to compete effectively with WOOD-TV.

(6) To determine whether WOOD Broadcasting, Inc. or its representatives made misleading or grossly careless statements in its application concerning television service to Western Michigan, and whether such statements reflect upon the character qualifications of the applicant and particularly upon its reliability.

(7) To determine, on the basis of the record made in connection with the foregoing issues, whether a grant of the above-entitled application would serve the public interest, convenience and necessity.

9. Issues 1 and 2 above call for factual determinations, and we believe that adequate allegations of fact have been made in support of such issues. Proposed issue 3 calls for a conclusion based on facts

adduced under the first two issues. Therefore, it will also be included in the hearing.

10. Protestant's proposed issue 4 raises the question of whether a grant of the subject application is consistent with the provisions of § 3.607 of the rules and the principles in the Commission's Sixth Report and Order. We do not believe that protestant's factual allegations justify this requested issue insofar as it relates to § 3.607. Channel 8 is assigned to Grand Rapids, Michigan, and protestant has not alleged facts indicating that WOOD-TV would not provide acceptable service to Grand Rapids from the proposed site or that the WOOD-TV proposal is an attempt to change the channel assignment without rule making. Inasmuch as protestant has alleged facts in support of its claim that the proposed transmitter move would violate one of the priorities set forth in the Commission's Sixth Report and Order, i.e., the provision of a choice of services to as many persons as possible, we are including the remainder of proposed issue 4 in the hearing. This issue as revised also calls for a conclusion based on facts adduced under the first two issues.

11. Proposed issue 5 raises the question of alleged economic injury to the protestant as a bar to the protested grant. Protestant states only that the increased competition would "adversely affect the interests of WILX-TV and Television Corporation of Michigan, Inc." (petition page 5) and that it would cause a loss which "would be very substantial to WILX-TV and would injure WILX-TV and Television Corporation of Michigan, Inc." (petition, page 6A). We believe it is settled that an allegation of economic injury to an existing station, absent any allegation that the public interest will be adversely affected, is insufficient to raise the issue requested. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470; Carroll Broadcasting Company v. Federal Communications Commission, 17 R.R. 2066, 258 F. 2d 440. Accordingly, we are not including an issue concerning economic injury to the protestant.

12. The protestant's proposed issue 6 raises the issue of the "character qualifications" of the applicant as a bar to a grant of the protested application, and is based on the following statement contained in the application:

A relocation of the antenna will not deny television service to any Western Michigan area. Since WOOD-TV began telecasting from its present location (utilizing maximum facilities), two stations north of WOOD-TV have initiated service. These are WWTW, Cadillac, Michigan, Channel 13 and WPBN, Channel 7, Traverse City. The strength of these two stations south of their locations is sufficiently strong to enable viewers in the area between Traverse City to the north and Grand Rapids to the south to receive several satisfactory signals.

Protestant argues that the creation of the white and gray areas referred to above proves that this statement is incorrect, and that, consequently, the statement is either so grossly careless or misleading that it raises a question of character qualifications against the applicant. We do not believe that the con-

clusions drawn by protestant are warranted by the factual allegations; however, since the issue is supported by facts alleged with particularity it will be included in the hearing.

13. Except as discussed above, we find that the protestant has specified with particularity, within the meaning of section 309(c) of the Communications Act of 1934, as amended, the facts upon which it relies and which it contends show that the grant by the Commission was improperly made or otherwise would not be in the public interest. Accordingly, the above-captioned application will be designated for an evidentiary hearing on the remaining issues. However, we are not adopting any of said issues, and the burden of proof thereon, both in proving the facts alleged and in demonstrating their materiality and relevancy, will be on the protestant.

14. There remains for our consideration the question whether the proposed grant should remain in effect. Section 309(c) of the Communications Act of 1934, as amended, provides that pending hearing and decision, the effective date of the Commission's action shall be postponed.

*** unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

It is clear that it is the intent of this portion of the Act that a protested grant be stayed unless there is an exceptional situation which concerns the public interest. It is apparent that the authorization involved is not essential to the conduct of an existing service. Further, the applicant has failed to show public interest considerations which require that the grant remain in effect. Consequently, the effective date of the Commission's action here in question will be postponed pending a final decision in the hearing hereinafter ordered.

15. In view of the foregoing: *It is ordered*. That, effective immediately, the effective date of the grant of the above-captioned application is postponed pending a final determination by the Commission in the evidentiary hearing described below; that the protest and petition for reconsideration filed herein are granted to the extent provided for below and are denied in all other respects; and that pursuant to section 309(c) of the Communications Act of 1934, as amended, the above-captioned application is designated for evidentiary hearing on the following issues:

1. To determine the areas and populations which would lose principal city service, Grade A and Grade B service from WOOD-TV, and the other services available to these areas and populations.

2. To determine the areas and populations which would gain principal city service, Grade A and Grade B service from WOOD-TV, and the other services available to these areas and populations.

3. To determine whether the opera-

tion of WOOD-TV at its proposed site would provide a more fair, equitable and efficient distribution of television service than the operation of WOOD-TV at its present site.

4. To determine whether a grant of the application would be consistent with the principles in the Commission's Sixth Report and Order.

5. To determine whether WOOD Broadcasting, Inc. or its representatives made misleading or grossly careless statements in its application concerning television service to Western Michigan, and whether such statements reflect upon the character qualifications of the applicant and particularly upon its reliability.

6. To determine, on the basis of the record made in connection with the foregoing issues, whether a grant of the above-entitled application would serve the public interest, convenience and necessity.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of the foregoing issues shall be on the protestant.

It is further ordered, That the protestant is hereby made a party to the above-captioned proceedings and that:

(a) The hearing on the above issues shall commence at a time and place and before an Examiner to be specified in a subsequent order;

(b) The parties to the proceedings herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and (7) days thereafter to file replies to any such exceptions; and

(c) The appearance by the parties intending to participate in the above hearing shall be filed not later than

Adopted: November 25, 1959.

Released: December 3, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10351; Filed, Dec. 7, 1959;
8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-6914]

KANSAS GAS AND ELECTRIC CO.

Notice of Application

DECEMBER 2, 1959.

Take notice that on November 20, 1959, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Kansas Gas and Electric Company ("Applicant"), a corporation organized under the laws of the State of West Virginia and doing business in the State of Kansas with its principal business office in Wichita, Kansas, seeking an order authorizing the issuance of 200,000 shares of its Common Stock. Applicant proposes to issue and sell said Common Stock, of no par value, under competitive bidding. Said shares of stock are to have full voting privileges, and are

identical as to rights and privileges with every other such share now issued. Upon completion of the proposed sale, Applicant will have outstanding 2,350,000 shares of Common Stock. Statements showing in total amount and per unit the price to the public, underwriting commissions and net proceeds will be supplied by amendment. Applicant states that proceeds from the issuance and sale of the aforesaid Common Stock will be used to meet expenditures in connection with its construction program.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 21st day of December, 1959, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10340; Filed, Dec. 7, 1959;
8:48 a.m.]

[Docket Nos. G-18641, G-8460]

DELTA DRILLING CO. ET AL.

Notice of Application and Date of Hearing

DECEMBER 2, 1959.

Take notice that on January 23, 1958, Delta Drilling Company, et al.¹ (Applicant) filed an application to terminate natural gas service to El Paso Natural Gas Company (El Paso) from certain acreage in the San Juan Basin, San Juan County, New Mexico, which application is being treated as an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon service and is on file with the Commission and open to public inspection.

The subject service was covered by a gas sales contract dated January 3, 1955, by and between Applicant, as seller, and El Paso, as buyer, on file with the Commission as Delta Drilling Company, et al., FPC Gas Rate Schedule No. 18.

Applicant was authorized to make the subject sale to El Paso by order issued May 13, 1955, in Docket No. G-8460.

Concurrently with the aforesaid application on January 23, 1958, Applicant filed an "Oil and Gas Lease Sale Agreement" dated December 24, 1954, by which Applicant assigned the producing properties involved herein to El Paso.

Said application of January 23, 1958, has been construed to be also a notice of cancellation of the related rate schedule and has been designated as Supplement No. 1 to Delta Drilling Company, et al., FPC Gas Rate Schedule No. 18.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

¹"Et al." parties are E. L. DeGolyer and John H. Murrell.

NOTICES

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 5, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure.* Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 24, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10339; Filed, Dec. 7, 1959;
8:48 a.m.]

[Docket No. G-18442]

SENECA GAS CO. OF WEST
VIRGINIA, INC.

**Notice of Application and Date of
Hearing**

DECEMBER 2, 1959.

Take notice that Seneca Gas Company of West Virginia, Inc. (Applicant), a West Virginia corporation, having its principal office at 503 South Washington Street, Winchester, Virginia, filed on April 30, 1959, an application and on June 1, 1959, a supplement thereto, pursuant to section 7(a) of the Natural Gas Act, for an order directing Atlantic Seaboard Corporation (Atlantic) to establish physical connection of its transportation facilities with the facilities which Applicant proposes to construct and to sell and deliver to Applicant its natural gas requirements for resale to the public in Hardy and Pendleton Counties, West Virginia, all as more fully represented in the application, which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate approximately 24 miles of 6½-inch transmission pipeline extending from a connection with Atlantic's 26-inch transmission line at a point west of Mathias in Hardy County, West Virginia, to the site of the Naval Radio Research Observatory at Sugar Grove, Pendleton County, West Virginia. Applicant also plans to construct and operate a natural gas distribution sys-

tem to serve the naval facility near Sugar Grove and plans to serve other customers and unincorporated towns and villages along the route of the proposed transmission line.

Applicant estimates its natural gas requirements for the area it proposes to serve as follows:

| Years of service | Requirements in Mcf | |
|------------------|---------------------|---------|
| | Peak day | Annual |
| 1. | 330 | 200,000 |
| 2. | 770 | 572,000 |
| 3. | 870 | 582,000 |
| 4. | 950 | 591,000 |
| 5. | 1,050 | 600,000 |

The largest single customer proposed to be served by Applicant will be the United States Naval Radio Observatory at Sugar Grove, West Virginia.

Applicant estimates the cost of the proposed construction will be \$783,280. Applicant proposes to finance its project by a connection charge to be paid by the United States Navy upon completion of Applicant's project. Said connection charge will be non-interest bearing and will be repaid to the Navy by a ten percent credit on each monthly bill as rendered for natural gas consumed by the Navy as well as by a ten percent credit on all other sales made from Applicant's transmission line. Construction cost during the period of construction will be financed by a bank loan.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 11, 1960 at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 30, 1959.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10341; Filed, Dec. 7, 1959;
8:48 a.m.]

**INTERSTATE COMMERCE
COMMISSION**

[Notice 233]

**MOTOR CARRIER TRANSFER
PROCEEDINGS**

DECEMBER 3, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking recon-

sideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62429. By order of November 30, 1959, the Transfer Board approved the transfer to Hix Trucking Company, a Corporation, Commerce, Ga.; of Certificates in Nos. MC 111897, and MC 111897 Sub 1, issued June 18, 1952, and October 25, 1957, respectively to W. A. Hix, Commerce, Ga.; authorizing the transportation of: Roofing, roofing and siding materials, asbestos boards, siding, and sheets, from Gainesville, Ga., to specified points in South Carolina, and Lumber, except plywood and veneer, from specified points in Georgia to specified points in Florida, South Carolina, North Carolina, Alabama, and Tennessee. James L. Flemister, 301 Georgia Savings Bank Building, Atlanta, Ga., for applicants.

No. MC-FC 62536. By order of November 30, 1959, the Transfer Board approved the transfer to Fore Trucking Co., Inc., Alameda, Calif., of Certificates Nos. MC 114067 Sub 2, MC 114067 Sub 8, MC 114067 Sub 11, MC 114067 Sub 13, and MC 114067 Sub 14, issued February 8, 1956, March 15, 1956, November 20, 1957, December 17, 1958, and May 25, 1959, respectively, to James W. Fore doing business as Fore Trucking Company, Alameda, Calif., authorizing the transportation of: Tallow, in bulk, in tank vehicles, from points in designated counties in Oregon, Idaho, Nevada, and California, to San Francisco, Calif., and from Yerington, Nev., to San Francisco, Calif., and points in Sacramento County, Calif.; Coconut oil, in bulk, in tank vehicles, restricted to traffic having an immediately prior movement by water, from San Francisco, Calif., to Sacramento, Calif.; Coconut fatty alcohol and coconut oil foots, in bulk, in tank vehicles, restricted to traffic having an immediately subsequent movement by water, from Sacramento, Calif., to San Francisco, Calif.; and Glycerin, in bulk, in tank vehicles, from the plant site of the Procter & Gamble Manufacturing Company at or near Sacramento, Calif., to San Francisco, Calif. C. S. Sherburne, Suite 1700, Central Tower Building, San Francisco, Calif., for applicants.

No. MC-FC 62586. By order of November 30, 1959, the Transfer Board approved the transfer to David Patrick Johnson and Corinne R. Johnson, doing business as Johnson Trucking Company, Pinedale, Wyo., of Certificate No. MC 102043 Sub 1, issued May 18, 1956, to Eugene L. Isaacs and John M. Sulenta, doing business as S & I Trucking Company, Pinedale, Wyo., authorizing the transportation of: Livestock, from points in Sublette County, Wyo., to points in Idaho and Utah; and building materials, stock salt, and cement, from points in Idaho and Utah, to points in Sublette County, Wyo. Robert S. Stauffer, 1510 East 20th Street, Cheyenne, Wyo., for applicants.

No. MC-FC 62614. By order of December 2, 1959, the Transfer Board approved the transfer to Donald H. and Arthur L. Rush, a partnership, doing business as Rush Truck Line, Eskridge, Kans., of Certificate in No. MC 98261 Sub 1, issued August 11, 1952, to George F. Mallett, Mabel Mallett and Leona Mallett, Heirs-at-Law, and Harland D. Rush, a partnership, doing business as R & M Truck Line, Eskridge, Kans., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Eskridge, Kans., and Topeka, Kans., and the intermediate points of Keene and Dover, Kans., with certain restrictions.

No. MC-FC 62677. By order of November 30, 1959. The transfer Board approved the transfer to Thomas Walsh Moving & Storage, Inc., Fall River, Mass., of Certificate No. MC 2755, issued September 5, 1956, to John J. Walsh, doing business as Thomas Walsh Moving & Trucking, Fall River, Mass., authorizing the transportation of: Household goods, as defined, by the Commission between Barnstable, Fall River, Falmouth, Freeport, New Bedford, Swansea, Wareham, and Westport, Mass., and Bristol, Tiverton, and Warren, R.I., on the one hand, and, on the other, points in Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia. J. Cyril LaTulippe, 26 Bedford Street, Fall River, Mass., for applicants.

No. MC-FC 62687. By order of November 30, 1959, the Transfer Board approved the transfer to Al's Auto Express Corp., New York, N.Y., of Certificate in No. MC 22507, issued November 10, 1949, to Albert Brezner, Lewis Brezner, Harry Brezner and Harry L. Abend, a partnership, doing business as Al's Auto Express, New York, N.Y., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between New York, N.Y., on the one hand, and, on the other, points in Nassau, Suffolk, and Westchester Counties, N.Y., and those in that part of Connecticut within 25 miles of Columbus Circle, New York, N.Y. Werner & Alfano, Attorneys at Law, 2 West 45 Street, New York 36, N.Y., for applicants.

No. MC-FC 62696. By order of November 30, 1959, the Transfer Board approved the transfer to Raymond Roy, Lowell, Mass., of Permit No. MC 48987 Sub 1, issued March 21, 1955, in the name of Charles A. Ganley, Lowell, Mass., authorizing the transportation over irregular routes of finished bakery products, from Boston, Mass., to Portsmouth, Manchester, and Nashua, N.H.; and bakery product shipping containers and stale bakery products, from Portsmouth, Manchester, and Nashua, N.H., to Boston, Mass. Francis L. Lappin, 45 Merrimack Street, Lowell, Mass., for applicants.

No. MC-FC 62702. By order of November 30, 1959, the Transfer Board approved the transfer to C. G. Potter, Temperance, Michigan, of Certificate No. MC 71593, issued August 1, 1955, to M.

Brownstein, Inc., Kearny, N.J., authorizing the transportation of: General commodities, excluding household goods, and other specified commodities, from Newark, N.J., to New York, N.Y., and from New York, N.Y., to points in Union, Hudson, Essex, Bergen, and Passaic Counties, N.J. Harold G. Hernly, 1624 Eye Street NW., Washington, D.C., for applicants.

No. MC-FC 62703. By order of November 30, 1959, the Transfer Board approved the transfer to Transit Freeze Corporation, Jersey City, New Jersey, of the operating rights claimed to have been performed by Woodrow W. Whitaker, Smyrna, Delaware, for which permanent authority is sought under Section 7 of the Transportation Act of 1958 in Docket No. MC 118249, to transport frozen fruits, frozen berries, and frozen vegetables, from and to points in all States and the District of Columbia, except Maine, Vermont, New Hampshire, and Alaska. William J. Augello, Jr., 2 West 45th Street, New York 36, N.Y.

No. MC-FC 62713. By order of November 30, 1959, the Transfer Board approved the transfer to Blue Streak Trucking Co., a corporation, Rutherford, N.J., of Permit No. MC 109746 issued December 29, 1949, in the name of Elson Trucking Co., Inc., John C. Stritehoff, Jr., Trustee, Weehawkin, N.J., authorizing the transportation of packing-house products and by-products, including fresh meats, from Newark, N.J., New York, N.Y., and points in Hudson County, N.J., to New York, N.Y., and points in Nassau and Westchester Counties, N.Y., and those in Bergen, Passaic, Morris, Essex, Hudson, Union, Somerset, Middlesex, and Monmouth Counties, N.J.; and flowers, seafood, fruits, vegetables and groceries, from Newark, Teterboro, New Brunswick, and Plainfield, N.J., and points in Hudson County, N.J., to New York, N.Y., and points in Nassau and Westchester Counties, N.Y.; and from New York, N.Y., to points in Bergen, Passaic, Morris, Essex, Hudson, Union, Somerset, Middlesex, and Monmouth Counties, N.J. Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J., for transferee. Gerold Kanengiser, 26 Journal Square, Jersey City, N.J., for transferor.

No. MC-FC 62719. By order of November 30, 1959, the Transfer Board approved the transfer to Charles B. Gardner and Alice C. Snow, a partnership, doing business as Gardner Storage Company, New London, Conn., of Certificate No. MC 10073 issued March 6, 1943, in the name of Mary R. Gardner, Charles B. Gardner, Executor, Charles B. Gardner and Alice C. Snow, a partnership, doing business as Gardner Storage Company, authorizing the transportation over irregular routes of used boat furniture, from New London, Conn., and points in Connecticut within 20 miles of New London, to points in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York and New Jersey; general commodities, excluding household goods, commodities in bulk, and various specified commodities, between New London, Conn., on the one hand, and, on the other, points in Connecticut; and

household goods, between points in Connecticut, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Pennsylvania, Virginia, and the District of Columbia; between points in Massachusetts, New York, and Rhode Island. Charles B. Gardner, 18 Blackhall Street, New London, Conn., for applicants.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-10342; Filed, Dec. 7, 1959;
8:48 a.m.]

TARIFF COMMISSION

[7-83]

LAMB, MUTTON, SHEEP, AND LAMBS

Notice of Investigation and Hearing

Investigation instituted. Following receipt of an application of the National Wool Growers Association, Salt Lake City, Utah, and the National Lamb Feeders Association, and communications from others with respect to the total problem, the United States Tariff Commission, on the 2d day of December 1959, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted on its own motion an investigation to determine whether lamb and mutton, fresh, chilled, or frozen, sheep, and lambs, all classifiable under paragraph 702 of the Tariff Act of 1930, are, as a result in whole or in part of the duty or other customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.s.t., on March 22, 1960, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date set for the hearing.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued December 3, 1959.

By order of the Commission.

[SEAL]

DONN N. BENT,
Secretary.

[F.R. Doc. 59-10345; Filed, Dec. 7, 1959;
8:48 a.m.]

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