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# Rules and Regulations

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 63-SO-30]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

#### Alteration of Federal Airways

On August 7, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 8045) stating that the Federal Aviation Agency proposed to alter Part 71 [New] of the Federal Aviation Regulations by designating an additional segment to VOR Federal airway No. 71 from Baton Rouge, La., via the new Natchez, Miss., VOR (latitude 31°37'05" N., longitude 91°17'58" W.), to Monroe, La.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

The substance of the proposed amendments having been published, therefore, for the reasons stated in the notice the following action is taken:

In § 71.123 (27 F.R. 220-6, November 10, 1962), V-71 is amended to read:

V-71 From Baton Rouge, La., via Natchez, Miss.; to Monroe, La. From Flippen, Ark., via Springfield, Mo.; Butler, Mo., including a W alternate via INT Springfield 301° and Butler 178° radials; to Kansas City, Mo.

This amendment shall become effective 0001 e.s.t., December 12, 1963.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 17, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63-11206; Filed, Oct. 23, 1963; 8:45 a.m.]

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[Airspace Docket No. 62-SW-72]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

#### Alteration of Federal Airways; Designation of Reporting Point

On April 10, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 3489) stating that the Federal Aviation Agency proposed to amend Part 71 [New] by altering VOR Federal airways Nos. 15, 16, 17, 66, 76, 94, 102, 163, 1622 and 1630 in the area between Midland, Tex., and Britton, Tex., and to designate Dyess, Tex., VOR as a reporting point.

Only July 23, 1963, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 7483) and altered the original notice in that VOR Federal airway No. 62 would be extended from Abilene, Tex., to Britton and only Victors 16, 17, 66, 76, 94, 102 and 163 would be altered. The Dyess VOR would be designated as a reporting point.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. No adverse comments were received.

A subsequent review of these actions disclosed that V-66 east of the intersection of Hyman 085° and Abilene 251° radials may be expanded to 11 miles in width in lieu of 13 miles stated in the supplementary notice. Therefore, this reduction is included herewith.

In consideration of the foregoing, the following actions are taken:

1. Section 71.123 (27 F.R. 220-6, November 10, 1962, 27 F.R. 12439, 28 F.R. 398, 2229, 3584, 3780, 6873, 7424, 8400, 9200, 9428) is amended as follows:

(a) In V-16 "Abilene, Tex., including an S alternate; Mineral Wells, Tex., including an N alternate and also an S alternate via INT of Abilene 096° and Mineral Wells 247° radials;" is deleted and "Abilene, Tex.; Mineral Wells, Tex., including an N alternate;" is substituted therefor.

(b) In V-17 "INT of Mineral Wells 355° and Bridgeport, Tex., 224° radials; Bridgeport;" is deleted and "Bridgeport, Tex.;" is substituted therefor.

(c) In V-62 "to Abilene." is deleted and "Abilene; INT Abilene 096° and Britton, Tex., 246° radials; to Britton (14 miles wide from 45 nmi from Abilene to 45 nmi from Britton)." is substituted therefor.

(d) In V-66 "INT of Midland 080° and Abilene, Tex., 251° radials; Abilene;" is deleted and "Hyman, Tex.; INT Hyman 085° and Abilene, Tex., 251° radials; Abilene (11 miles wide from the INT of Hyman 085° and Abilene 251° radials to 45 nmi from Abilene);" is substituted therefor.

(e) In V-76 "San Angelo, Tex.;" is deleted and "Hyman, Tex.; San Angelo, Tex.;" is substituted therefor.

(f) In V-94 "Carlsbad, N. Mex.; to Hobbs, N. Mex. From Abilene, Tex., via INT of Abilene 096° and Britton, Tex., 264° radials; Britton;" is deleted and "Wink, Tex.; Midland, Tex.; Hyman, Tex.; Dyess, Tex.; INT Dyess 084° and Britton, Tex., 264° radials; Britton (14 miles wide from 45 nmi from Dyess to 45 nmi from Britton);" is substituted therefor.

(g) In V-102 "From Roswell, N. Mex., via" is deleted and "From Salt Flat, Tex., via Carlsbad, N. Mex.; Hobbs, N. Mex.;" is substituted therefor.

(h) In V-163 "INT of Mineral Wells 355° and Bridgeport, Tex., 224° radials; Bridgeport;" is deleted and "Bridgeport, Tex.;" is substituted therefor.

2. In § 71.203 (27 F.R. 220-157, November 10, 1962) Dyess, Tex. is added.

These amendments shall become effective 0001 e.s.t., December 12, 1963.

(Sec. 307(a) 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 17, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63-11207; Filed, Oct. 23, 1963; 8:45 a.m.]

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[Airspace Docket No. 63-SO-24]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE AND REPORTING POINTS [NEW]

#### Designation and Alteration of Federal Airways and Transition Area

On August 3, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 7954) stating that the Federal Aviation Agency proposed to designate a VOR Federal airway from Mobile, Ala., via a new VOR at Laurel, Miss., to Jackson, Miss., and to realign several alternate airways in the Jackson area.

Although not mentioned in the Notice, the realignment of VOR Federal airway No. 18 north alternate between Jackson and Meridian, Miss., necessitates a change in the description of the Meridian transition area. Since no additional airspace is involved, action is taken herein to effect this change.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

The substance of the proposed amendments having been published and for the reasons stated in the notice the following actions are taken:

1. In § 71.123 (27 F.R. 220-6, November 10, 1962) the following changes are made:

(a) In V-9 (27 F.R. 12926, 28 F.R. 4163) "via INT of McComb 021° and Jackson 140° radials and also a W alternate via INT of McComb 348° and Jackson 224° radials; Greenwood, Miss., including an E alternate via INT of Jackson 032° and Greenwood 159° radials and also a W alternate via INT of Jackson 328° and Greenwood 193° radials;" is deleted and "and also a W alternate via INT of McComb 348° and Jackson 224° radials; Greenwood, Miss., including an E alternate and also a W alternate;" is substituted therefor.

(b) In V-11 (28 F.R. 4163) add at the beginning "From Mobile, Ala., via Laurel, Miss., to Jackson, Miss."

(c) In V-18 (28 F.R. 2308) "Jackson, Miss., including an N alternate via INT

of Monroe 072° and Jackson 291° radials and also an S alternate via INT of Monroe 110° and Jackson 248° radials; Meridian, Miss., including an N alternate via INT of Jackson 070° and Meridian 299° radials and also an S alternate via INT of Jackson 140° and Meridian 259° radials;" is deleted and "Jackson, Miss., including an N alternate and also an S alternate via INT of Monroe 110° and Jackson 248° radials; Meridian, Miss., including an N alternate and also an S alternate via INT of Jackson direct radial to Laurel, Miss., and Meridian 262° radial;" is substituted therefor.

2. In § 71.181 (27 F.R. 220–139, November 10, 1962) Meridian, Miss., "via the north boundary of V–18N," is deleted and "via the north boundary of V–18N, to longitude 89°30'00'' W.," is substituted therefor.

These amendments shall become effective 0001 e.s.t., December 12, 1963.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 17, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63–11208; Filed, Oct. 23, 1963; 8:45 a.m.]

[Airspace Docket No. 63–WA–75]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

### Designation and Revocation of Reporting Points

The purpose of these amendments to § 71.209 of the Federal Aviation Regulations [New] is to designate the Hawaii, Florida and Alaska intersections and revoke the Iowa intersection as reporting points in the Puerto Rico area.

Air traffic control requirements with regard to specific reporting points, periodically change due to modification to operating procedures and airway configurations. Recent changes of this nature require that the Hawaii, Florida and Alaska intersections be designated as reporting points and obviate the requirement for the Iowa intersection as a reporting point. Therefore, action is taken herein to effect the designations and revocation.

As these amendments are procedural in nature and do not involve the designation of airspace, notice and public procedure hereon is unnecessary. However, since it is necessary that sufficient time be allowed to permit necessary changes to be made on aeronautical charts, these amendments will become effective more than thirty days after publication.

Since this action involves navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

For the reasons stated above, the following actions are taken:

In § 71.209 (27 F.R. 220–172, November 10, 1962) "Iowa INT: INT Ramey AFB, P.R., 149°, San Juan, P.R., 226° radials." is deleted and "Alaska INT: INT Ponce, P.R., 181°, St. Croix, P.R., 243° radials.", "Florida INT: INT 149° bearing San Juan, P.R., RBN, St. Croix, P.R., 220° radial.", and "Hawaii INT: INT Ramey AFB, P.R., 195°, Ponce, P.R., 235° radials." are added.

These amendments shall become effective 0001 e.s.t., December 12, 1963.

(Sec. 307(a) and 1110, 72 Stat. 749 and 800; U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565)

Issued in Washington, D.C., on October 17, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63–11209; Filed, Oct. 23, 1963; 8:45 a.m.]

## SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES [NEW]

[Reg. Docket No. 1990; Amdt. 344]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES [NEW]

### Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 [New] (14 CFR Part 97 [New]) is amended as follows:

1. By amending the following low or medium frequency range procedures prescribed in § 97.11(a) to read:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| PROCEDURE CANCELLED, EFFECTIVE 2 NOV. 1963. | | | | | | | |
| City, Des Moines; State, Iowa; Airport Name, Des Moines Municipal; Elev., 957'; Fac. Class., SBRAZ; Ident., DZ; Procedure No. 1, Amdt. 16; Eff. Date, 15 June 63; Sup. Amdt. No. 15; Dated, 6 Apr. 63 | | | | | | | |
| Homer VOR | Homer LFR | Direct | 2700 | T–dn<br>C–dn<br>A–dn | 400–1<br>500–1<br>800–2 | 400–1<br>500–1<br>800–2 | 400–1<br>500–1½<br>800–2 |

Procedure turn S side W crs, 241° Outbnd, 061° Inbnd, 2200' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility missed approach point, 090°—4.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 miles after passing HH LFR, turn right, climb to 2500' on W crs (241° Outbnd) within 20 miles.
CAUTION: Terrain within 1 mile N and W rising to 1000' and continuing to rise to 1500' within 4 miles. All maneuvers to be conducted SE of airport. Turn right after takeoff Runway 3, turn left after takeoff Runway 21.
Other change: Deletes transition from Anchor Point Int.

City, Homer; State, Alaska; Airport Name, Homer Municipal; Elev., 80'; Fac. Class., SBRAZ; Ident., HH; Procedure No. 1, Amdt. 14; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 13; Dated, 27 Aug. 60

LFR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| PROCEDURE CANCELLED, EFFECTIVE 2 NOV. 1963. | | | | | | | |
| City, Homer; State, Alaska; Airport Name, Homer Municipal; Elev., 80′; Fac. Class., SBRAZ; Ident., HH; Procedure No. 2, Amdt. 2; Eff. Date, 27 Aug. 60; Sup. Amdt. No. 1; Dated, 10 Sept. 55 | | | | | | | |
| | | | | T-dn | 300–1 | 300–1 | 200–½ |
| | | | | C-dn | 400–1 | 500–1 | 500–1½ |
| | | | | S-dn | NA | NA | NA |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |

Procedure turn S side of crs, 096° Outbnd, 276° Inbnd, 2400′ within 10 miles (nonstandard).
Minimum altitude over facility on final approach crs, 1200′.
Crs and distance, facility to airport, 272°—1.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.4 miles after passing MC LFR, climb straight ahead to 1300′ on NW crs (272° Outbnd), make right climbing turn proceeding direct to MC LFR. Continue climb to 4000′ on SE crs (096° Outbnd) within 20 miles.
NOTE: Do not descend below procedure turn altitude until well established on crs Inbnd (see caution note No. 1).
CAUTION: 1. Terrain rising to 927′ 8.6 miles E of McGrath LFR and 3.1 miles N of final approach crs. 2. Terrain rising to 1266′ 3.1 miles S of airport. 3. Mountainous terrain all quadrants.

City, McGrath; State, Alaska; Airport Name, McGrath; Elev., 347′; Fac. Class., SBRAZ; Ident., MC; Procedure No. 1, Amdt. 9; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 8 Dated, 3 Mar. 62

PROCEDURE CANCELLED, EFFECTIVE 2 Nov. 1963.

City, Springfield; State, Ill.; Airport Name, Capital; Elev., 593′; Fac. Class., SBMRAZ; Ident., SI; Procedure No. 1, Amdt. 7; Eff. Date, 30 Mar. 63; Sup. Amdt. No. 6; Dated 14 Jan. 56

2. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| Nutbush Int | Blackstone RBn | Direct | 2200 | T-dn | 300–1 | 300–1 | NA |
| Amelia Int | Blackstone RBn | Direct | 2200 | C-dn | 500–1 | 500–1 | NA |
| | | | | S-dn | NA | NA | NA |
| | | | | A-dn | 800–2 | 800–2 | NA |

Procedure turn W side of crs, 312° Outbnd, 132° Inbnd, 2200′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 132°—4.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing BKT RBn, make left climbing turn to 2200′ and return to BKT RBn. Hold NW 1-minute right turns.
CAUTION: 461′ water tank 1 mile S of airport; 440′ tower 2 miles W of airport on U.S. Route 40. 550′ water tank 1 mile S of airport. 620′ tanks 1 mile S of airport. 490′ terrain 1 mile SE of Nutbush Int.
NOTE: Authorized for military use only, except by prior arrangement.

City, Bladkstone; State, Va.; Airport Name, Blackstone AAF; Elev., 436′; Fac. Class., H; Ident., BKT; Procedure No. 1, Amdt. Orig.; Eff. Date, 2 Nov. 63, or upon commissioning of RBn

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| CDR VOR | CDR RBn | Direct | 5900 | T-dn | 300–1 | 300–1 | 200–½ |
| | | | | C-dn | 700–1 | 700–1 | 700–1½ |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |

Procedure turn W side of crs, 357° Outbnd, 177° Inbnd, 5100′ within 10 miles.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile, turn right, climb to 5100′ on crs 357° within 10 miles. Return to CDR RBn.

City, Chadron; State, Nebr.; Airport Name, Chadron Municipal; Elev., 3296′; Fac. Class., BH (Non-Federal Facility); Ident., CDR; Procedure No. 1, Amdt. 5; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 4; Dated, 21 May 60

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| CVG VOR | CV-LOM | Direct | 2000 | T-dn | 300–1 | 300–1 | 200–½ |
| New Baltimore Int | CV-LOM | Direct | 2300 | C-dn | 400–1 | 500–1 | 500–1½ |
| Cincinnati LFR | CV-LOM | Direct | 2700 | S-dn-36 | 400–1 | 400–1 | 400–1 |
| Dry Ridge Int | Union Int | Direct | 2400 | A-dn | 800–2 | 800–2 | 800–2 |
| Union Int | CV-LOM (final) | Direct | 1500 | | | | |
| Mt. Healthy Int | CV-LOM | Direct | 2400 | | | | |

Radar vectoring authorized in accordance with approved patterns.
Procedure turn E side of crs, 180° Outbnd, 360° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 1500′.
Crs and distance, facility to airport, 360°—3.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing LOM, climb to 2700′ on bearing 360° from LOM to New Baltimore Int. Hold N 1-minute right turns, 186° Inbnd, 006° Outbnd.

City, Covington; State, Ky.; Airport Name, Greater Cincinnati; Elev., 890′; Fac. Class., LOM; Ident., CV; Procedure No. 1, Amdt. 18; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 17; Dated, 20 Apr. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Gardner VOR | Fitchburg RBn | Direct | 3500′ | T-dn | 1000–2 | 1000–2 | NA |
| | | | | C-dn | 1200–2 | 1200–2 | NA |
| | | | | A-dn | NA | NA | NA |

Procedure turn N side of crs, 140° Outbnd, 320° Inbnd, 2500′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1600′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile, climb to 3500′ on 320° bearing from FIT RBn within 10 miles. Return to FIT RBn, hold NW, 140° Inbnd, right turns, 1-minute.
NOTE: Facility must be monitored aurally during this procedure. Facility operated by city.
CAUTION: 1230′ antenna 4.0 miles NW of airport.
Other change: Deletes air carrier note.

City, Fitchburg; State, Mass.; Airport Name, Fitchburg Municipal; Elev., 350′; Fac. Class., MHW; Ident., FIT; Procedure No. 1, Amdt. 2; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 1; Dated, 26 Jan. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | T-dn* | 1300–2 | 1300–2 | 1300–2 |
| | | | | C-dn | 1500–2 | 1500–2 | 1500–2 |
| | | | | A-d | 2500–2 | 2500–2 | 2500–2 |
| | | | | A-n | 4000–2 | 4000–2 | 4000–2 |

Procedure turn W side of crs, 202° Outbnd, 022° Inbnd, 3500′ within 10 miles (W to avoid terrain to E).
Minimum altitude over facility on final approach crs, 2500′.
Crs and distance, facility to airport, 022°—2.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.7 miles after passing EEN RBn, make a left climbing turn returning to EEN RBn. Continue to climb to 4000′ in standard holding pattern 202° Inbnd, 022° Outbnd, all turns W of holding track. Hold N 202° Inbnd, 1-minute, right turns.
NOTE: IFR climb-out procedure: Climb with visual reference to enter ceiling over airport on direct crs, climbing to EEN RBn, continue to climb in holding pattern. Minimum facility departure altitude 4000′ except 5000′ northeastbound.
NOTE: Facility must be monitored aurally during this procedure. Facility operated by State.
AIR CARRIER NOTE: Visibility below 1 mile day, 2 miles night not authorized by application of sliding scale for local visibility conditions for landing or for reduction to takeoff minimums.
*Night takeoff to SE not authorized.

City, Keene; State, N.H.; Airport Name, Dillant-Hopkins; Elev., 482′; Fac. Class., MHW; Ident., EEN; Procedure No. 1, Amdt. 6; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 5; Dated, 15 Mar. 58

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Arcola Int | MTO RBn | Direct | 2400 | T-dn | 300–1 | 300–1 | 200–½ |
| Union Center Int | MTO RBn | Direct | 2500 | C-dn | 600–1 | 600–1 | 600–1½ |
| | | | | S-dn-6 | 600–1 | 600–1 | 600–1 |
| | | | | A-dn* | NA | NA | NA |
| | | | | The following minimums apply if Etna Int# received: | | | |
| | | | | C-dn | 400–1 | 500–1 | 500–1½ |
| | | | | S-dn-6 | 400–1 | 400–1 | 400–1 |

Procedure turn E side of crs, 225° Outbnd, 045° Inbnd, 2300′ within 10 miles.
Minimum altitude over facility on final approach crs, 1300′.
Facility on airport.
Crs and distance, Etna Int# to airport, 045°—3.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of MTO RBn, climb to 2300′ on crs of 045°, turn right and return to MTO RBn, hold SW, Inbnd crs 045°, right turns.
NOTE: No weather available. Private facility operated by Coles County Airport authority.
*Alternate minimums of 800–2 authorized for air carriers with approved weather service.
#Etna Int: Int MTO RBn 225° bearing and DEC R-124.

City, Mattoon; State, Ill.; Airport Name, Coles County Memorial; Elev. 720′; Fac. Class., MHW (private facility); Ident., MTO; Procedure No. 1, Amdt. Orig.; Eff. Date, 2 Nov. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Monroe VOR | LOM | Direct | 1600 | T-dn | 300–1 | 300–1 | 200–½ |
| | | | | C-dn | 400–1 | 500–1 | 500–1½ |
| | | | | S-dn-4 | 400–1 | 400–1 | 400–1 |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |

Procedure turn S side of crs, 218° Outbnd, 038° Inbnd, 1600′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1200′.
Crs and distance, facility to airport, 038°—4.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles after passing ML LOM, climb to 1600′ on bearing 038° from the LOM within 10 miles.

City, Monroe; State, La.: Airport Name, Selman; Elev., 79′; Fac. Class., LOM; Ident., ML; Procedure No. 1, Amdt. 3; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 2 (ADF portion combines ILS-ADF); Dated, 7 Dec. 57

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| MGW VOR | MGW RBn | Direct | 3500 | T-dn | 300–1 | 300–1 | NA |
| Cassville Int# | MGW RBn | Direct | 3000 | C-d | 600–1 | 600–1 | NA |
| Greensboro Int## | MGW RBn | Direct | 3500 | C-n | 600–2 | 600–2 | NA |
| | | | | S-d-18 | 600–1 | 600–1 | NA |
| | | | | S-n-18 | 600–2 | 600–2 | NA |
| | | | | A-dn | 800–2 | 800–2 | NA |

Procedure turn W side of crs, 353° Outbnd, 173° Inbnd, 3000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2300′.
Crs and distance, facility to airport, 173°—4.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.7 miles after passing MGW RBn, climb to 4000′ on 216° crs within 10 miles. Reverse crs, proceed to MGW RBn. Hold NW, 1-minute right turns, 173° Inbnd.
CAUTION: 2295′ terrain 4 miles SE of airport.
#Cassville Int: Int MGW VOR R–328 and 038° bearing to MGW RBn.
##Greensboro Int: Int MGW VOR R–354 and 216° bearing to MGW RBn.

City, Morgantown; State, W. Va.; Airport Name, Morgantown Municipal; Elev., 1256′; Fac. Class., SABH; Ident., MGW; Procedure No. 1, Amdt. 4; Eff. Date, 2 Nov. 63 Sup. Amdt. No. 3; Dated, 28 Sept. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| YNG VOR | LOM | Direct | 2800 | T-dn | 300–1 | 300–1 | 200–½ |
| Canfield Int | Hubbard RBn | Direct | 3000 | C-dn | 400–1 | 500–1 | 500–1½ |
| Hubbard RBn | LOM (final) | Direct | 2700 | S-dn-32 | 400–1 | 400–1 | 400–1 |
| Mercer Int | Hubbard RBn | Direct | 3000 | A-dn | 800–2 | 800–2 | 800–2 |
| Sharpsville Int | Hubbard RBn | Direct | 2800 | | | | |
| Palestine Int | Hubbard RBn | Direct | 3000 | | | | |

Procedure turn N side of crs, 140° Outbnd, 320° Inbnd, 2800′ within 10 miles.
Minimum altitude over facility on final approach crs, 2700′.
Crs and distance, facility to airport, 320°—4.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.7 miles after passing YN LOM, climb straight ahead to 2800′, make right turn and proceed to YN LOM. Hold SE, 1-minute right turns, 320° Inbnd.

City, Youngstown; State, Ohio; Airport Name, Youngstown Municipal; Elev., 1196′; Fac. Class., LOM; Ident., YN; Procedure No. 1, Amdt. 9; Eff. Date, 2 Nov. 63; Sup Amdt. No. 8; Dated, 4 May 63

3. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| Georgetown DME Int | AUS VOR (final) | Direct | 1800 | T-dn | 300–1 | 300–1 | *300–1 |
| | | | | C-dn | 400–1 | 500–1 | 500–1½ |
| | | | | S-dn-16R | 400–1 | 400–1 | 400–1 |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |

Radar vectoring authorized in accordance with approved patterns.
Procedure turn W side of crs, 007° Outbnd, 187° Inbnd, 2100′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1800′; over 2.4-mile DME fix on R–175 AUS VOR, 1300′**.
Crs and distance, facility to airport, 175°—4.9 miles; 2.4-mile DME fix to airport, 175°—2.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing VOR, turn right, climb to 3000′; on R–189 within 15 miles or, when directed by ATC, turn left, climb to 2000′ on R–125 within 20 miles.
CAUTION: Tank 855′ 1.2 miles W of final approach crs, 2.3 miles NW of airport.
NOTE: Radar fix may be used in lieu of 2.4 mile DME fix.
*200–½ authorized on Runways 16R, 34L, 12R and 30L only.
**Descent below 1300′ authorized only after passing 2.4-mile DME fix on R–175.

City, Austin; State, Texas; Airport Name, Mueller Municipal; Elev., 631′; Fac. Class., BVORTAC; Ident., AUS; Procedure No. 1, Amdt. 13; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 12; Dated, 12 Jan. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | T-dn | 300–1 | 300–1 | 300–1 |
| | | | | C-dn | 2000–3 | 2000–3 | 2000–3 |
| | | | | A-dn | 2000–3 | 2000–3 | 2000–3 |

Procedure turn E side of crs, 197° Outbnd, 017° Inbnd, 6200′ within 10 miles.
Minimum altitude over facility on final approach crs, 6200′.
Crs and distance, facility to airport, 017°—18.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.0 miles after passing CDR–VOR, make left turn, climb to 6300′, return to CDR–VOR.
CAUTION: 4853′ tower located 2.0 miles NE of CDR VOR.

City, Chadron; State, Nebr.; Airport Name, Chadron Municipal; Elev., 3296′; Fac. Class., BVOR; Ident., CDR; Procedure No. 1, Amdt. 4; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 3; Dated, 17 Feb. 62

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| | | | | T-dn | 300-1 | NA | NA |
| | | | | C-d | 500-1 | NA | NA |
| | | | | C-n | 500-1½ | NA | NA |
| | | | | A-dn | 800-2 | NA | NA |

Procedure turn S side of crs, 235° Outbnd, 055° Inbnd, 2600′ within 10 miles.
Minimum altiutude over facility on final approach crs, 2500′.
Crs and distance, facility to airport, 055°—5.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.7 miles after passing CNU-VOR, make right turn, climbing to 2900′. Return to CNU VOR.
CAUTION: 1450′ tower 5.5 miles W of airport. 1270′ unlighted stack 2.0 miles N of airport. 1172′ tower 1.0 miles E of airport.
Other change: Deletes transition from CNU LFR.

City, Chanute; State, Kans.; Airport Name, Martin Johnson; Elev. 1001′; Fac. Class., BVOR; Ident., CNU; Procedure No. 1, Amdt. 2; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 1; Dated, 30 June 62

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | T-dn* | 1300-2 | 1300-2 | 1300-2 |
| | | | | C-dn | 1300-2 | 1300-2 | 1300-2 |
| | | | | A-d | 2500-2 | 2500-2 | 2500-2 |
| | | | | A-n | 4000-2 | 4000-2 | 4000-2 |

Procedure turn W side of crs, 204° Outbnd, 024° Inbnd, 3000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2500′.
Crs and distance, facility to airport, 024°—5.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.8 miles after passing EEN VOR, make a left climbing turn, returning to Keene VOR, continue climb to 4000′ in standard holding pattern Inbnd on R-024. Hold N of EEN VOR on R-024, 1-minute, right turns, 204° Inbnd.
AIR CARRIER NOTE: Visibility below 1 mile day, 2 miles night, not authorized by application of sliding scale for local visibility conditions for landing or for reduction to takeoff minimums.
NOTE: IFR climb-out procedure: Climb with visual reference to enter ceiling over airport on direct crs climbing to Keene VOR. Continue climb in holding pattern, minimum facility departure altitude 4000′ except 5000′ northeastbound.
*Night takeoffs to SE not authorized.

City, Keene; State, N.H.; Airport Name, Dillant-Hopkins; Elev., 482′; Fac. Class., BVOR; Ident., EEN; Procedure No. 1, Amdt. 1; Eff. Date, 2 Nov. 63; Sup. Amdt. No. Orig.; Dated, 23 May 59

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| MC LFR | MCG VOR | Direct | 2700 | T-DN | 300-1 | 300-1 | 200-½ |
| | | | | C-DN* | 500-1 | 500-1 | 500-1½ |
| | | | | A-DN | 800-2 | 800-2 | 800-2 |

Procedure turn N side of crs, 097° Outbnd, 277° Inbnd, 2700′ within 10 miles.
Minimum altitude over facility on final approach crs 1200′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile, turn right, climb to 3000′ on R-100 MCG VOR within 20 miles.
CAUTION: Mountainous terrain all quadrants. Terrain 1266′ 3.1 miles S of airport.
*Descend to 847′ after passing MC LFR. If LFR not identified on final approach, descent below 1200′ not authorized. Air carrier sliding scale not authorized.

City, McGrath; State, Alaska; Airport Name, McGrath; Elev., 347′; Fac. Class., HVOR; Ident., MCG; Procedure No. 1, Amdt. 1; Eff. Date, 2 Nov. 63; Sup. Amdt. No. Orig.; Dated, 15 June 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | T-dn | 300-1 | 300-1 | 200-½ |
| | | | | C-dn | 500-1 | 500-1 | 500-1½ |
| | | | | S-dn-4 | 400-1 | 400-1 | 400-1 |
| | | | | A-dn | 800-2 | 800-2 | 800-2 |

Procedure turn S side of crs, 215° Outbnd, 035° Inbnd, 1600′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1200′.
Crs and distance, facility to airport, 035°—4.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles after passing MLU-VOR, climb to 2000′ on R-065 within 20 miles.
CAUTION: 850′ TV antenna located 3.7 miles WNW of airport.
Other change: Transition from Monroe LFR deleted.

City, Monroe; State, La.; Airport Name, Selman; Elev., 79′; Fac. Class., BVORTAC; Ident., MLU; Procedure No. 1, Amdt. 5; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 4; Dated, 25 Mar. 61

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Int Little Rock R-134 and PBF R-359 | PBF-VOR (final) | Direct | 1200 | T-dn | 300-1 | 300-1 | 200-½ |
| | | | | C-dn | 400-1 | 500-1 | 500-1½ |
| | | | | S-dn-17 | 400-1 | 400-1 | 400-1 |
| | | | | A-dn | 800-2 | 800-2 | 800-2 |

Procedure turn W side of crs, 359° Outbnd, 179° Inbnd, 1700′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1200′.
Crs and distance, facility to airport, 179°—3.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing the PBF-VOR, make immediate right turn, climb to 2000′ on PBF R-208 within 20 miles.
Other change: Deletes transition from Pine Bluff RBn.

City, Pine Bluff; State, Ark.; Airport Name, Grider Field; Elev., 205′; Fac. Class., BVOR; Ident., PBF; Procedure No. 1, Amdt. 5; Eff. Date, 2 Nov. 63; Sup. Amdt. No.4; Dated 18 Nov. 61

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Bay Int | LAX VOR | Direct | 3000 | T-dn | 300-1 | 300-1 | 200-½ |
| | | | | C-dn | 800-1 | 800-1 | 800-1½ |
| | | | | A-dn | 1000-2 | 1000-2 | 1000-2 |

Radar vectoring authorized in accordance with approved patterns.
Procedure turn S side of crs, 285° Outbnd, 115° Inbnd, 3800′ within 10 miles.
Minimum altitude over LAX VOR on final approach crs, 3000′; over Redondo Int, 1300′.
Crs and distance, Redondo Int to airport, 135°—2.9 miles; breakoff point to runway, 135°—1.0 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.0 miles after passing Redondo Int, make immediate left climbing turn to heading 090°, climb to 1500′, turn left to intercept LGB R-272, climb to 2000′ at Hermosa Int.

City, Torrance; State, Calif.; Airport Name, Torrance Municipal; Elev. ,95′; Fac. Class., H-BVOR; Ident., LAX; Procedure No. 1 Amdt. Orig.; Eff. Date, 2 Nov. 63

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| | | | | T-dn | 600–1 | 300–1 | 200–½ |
| | | | | C-dn | 400–1 | 500–1 | 500–1½ |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |

Procedure turn S side of crs, 238° Outbnd, 058° Inbnd, 2000′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1000′.
Crs and distance, facility to airport, 058°—1.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.1 miles after passing ARG–VOR, turn left, climb to 2000′ on R–014 ARG–VOR, within 20 miles.

City, Walnut Ridge; State, Ark.; Airport Name, Walnut Ridge Municipal; Elev., 275′; Fac. Class., BVOR; Ident., ARG; Procedure No. 1, Amdt. 3; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 2; Dated, 28 July 56

4. By amending the following terminal very high frequency omnirange (TerVOR) procedures prescribed in § 97.13 to read:

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| Margaret Int | Curlee Int* (final) | Direct | 1700 | T-dn | 300–1 | 300–1 | 200–½ |
| | | | | C-dn | 600–1 | 600–1 | 600–1½ |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |

Radar vectoring authorized in accordance with approved patterns.
No procedure turn. Radar control will not descend aircraft below 3000′ until passing Margaret Int.
Minimum altitude over facility on final approach crs, 1400′#.
Facility on airport.
Crs and distance, Curlee Int* to airport, 095°—1.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile, make right climbing turn to 3000′ and return to Margaret Int via R–275 FTY–VOR or follow radar vector as directd by ATC.
NOTES: Procedure authorized only for aircraft equipped with dual VOR receivers or one ADF and one VOR receiver. ATL approach control radar must also be in operation for vector to final approach course.
CAUTION: Water tank 1218′ 1.8 miles WNW of airport.
*Curlee Int: Int R–275 FTY–VOR and R–345 ATL VOR or 330° bearing to LSM RBn.
#Maintain 1600′ until passing Curlee Int*.

City, Atlanta; State, Ga.; Airport Name, Fulton County; Elev., 834′; Fac. Class., L–BVOR; Ident., FTY; Procedure No. TerVOR (R–275), Amdt. 4; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 3; Dated, 17 Nov. 62

PROCEDURE CANCELLED, EFFECTIVE 2 NOV. 1963.

City, Battle Creek; State, Mich.; Airport Name, Kellogg Field; Elev., 941′; Fac. Class, L–BVORTAC; Ident., BLT; Procedure No. TerVOR–31, Amdt. 3; Eff. Date, 31 Dec. 60; Sup. Amdt. No. 2; Dated, 12 Nov. 60

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Morey Int | TAX–VOR | Direct | 2600 | T-dn | 300–1 | 300–1 | 200–½ |
| Marshall Int | TAX–VOR | Direct | 2600 | C-dn | 600–1 | 600–1 | 600–1½ |
| MS LOM | TAX–VOR | Direct | 2600 | S-dn–31 | 500–1 | 500–1 | 500–1 |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |
| | | | | Following minimum applies if College Int* received: | | | |
| | | | | S-dn–31 | 400–1 | 400–1 | 400–1 |

Procedure turn E side of crs, 131° Outbnd, 311′ Inbnd, 2300′ within 10 miles.
Facility on airport.
Minimum altitude over facility on final approach crs, 1400′.
Crs and distance, breakoff point to approach end of Runway 31, 313°—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile after passing TAX–VOR, climb to 2700′ on R–311 within 10 miles.
NOTE: When weather is below 2000–2, aircraft departing southwestbound, flight below 2700′ beyond 4 miles from airport is prohibited between radials 201 and 257, inclusive, of the TAX–VOR due to 2227′ tower 9 miles SW of airport.
*College Int: Int TAX–VOR R–131 and 054° bearing from LOM.

City, Madison; State, Wis.; Airport Name, Truax Field; Elev., 859′; Fac. Class., BVOR; Ident., TAX; Procedure No. TerVOR–31, Amdt. 1; Eff. Date, 2 Nov. 63; Sup. Amdt No. Orig.; Dated, 16 June 62

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Morey Int | TAX–VOR | Direct | 2700 | T-dn | 300–1 | 300–1 | 200–½ |
| Marshall Int | TAX–VOR | Direct | 2700 | C-dn | 700–1 | 700–1 | 700–1½ |
| MS LOM | TAX–VOR | Direct | 2700 | S-dn–13 | 700–1 | 700–1 | 700–1 |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |

Procedure turn W side of crs, 317° Outbnd, 137° Inbnd, 2300′ within 10 miles.
Facility on airport.
Minimum altitude over facility on final approach crs, 1600′.
Crs and distance, breakoff point to approach end of Runway 13, 133°—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile after passing TAX–VOR, climb to 2600′ on R–137 within 15 miles.
NOTE: When weather is below 2000–2, aircraft departing southwest bound, flight below 2700′ beyond 4 miles from airport is prohibited between radials 201 and 257, inclusive, of the TAX–VOR due to 2227′ tower 9 miles SW of airport.

City, Madison; State, Wis.; Airport Name, Truax Field; Elev., 859′; Fac. Class., BVOR; Ident., TAX; Procedure No. TerVOR–13, Amdt. 1; Eff. Date, 2 Nov. 63; Sup. Amdt. No. Orig.; Dated, 16 June 62

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| Lafayette Int | PV LOM Greenwich Int* (final) | Direct | 1600 | T-dn | 300–1 | 300–1 | 200–½ |
| | | | | C-dn | 800–1 | 800–1 | 800–1½ |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |
| | | | | #After passing PV LOM or Greenwich Int,* the following minimums are authorized: | | | |
| | | | | C-dn | 600–1 | 600–1 | 600–1½ |
| | | | | S-dn–5 | 600–1 | 600–1 | 600–1 |

Radar vectoring by Quonset Point RATCC authorized in accordance with approved patterns.
Procedure turn W side of crs, 226° Outbnd, 046° Inbnd, 1700′ within 10 miles of PV LOM or Greenwich Int*.
Minimum altitude over facility on final approach crs, #856′.
Crs and distance, PV LOM or Greenwich Int* to airport, 046°—5.4 miles.
VOR on airport. No centerline intercept provided to allow use of dual runways.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile after passing PVD VOR or 5.4 miles after passing the PV LOM or Greenwich Int*, make climbing left turn to 2300′ to Foster Int. Hold SW on R-057 ORW VOR, 1-minute left turns, or when directed by ATC, make a climbing left turn and return to the PV LOM or Greenwich Int* at 1700′. Hold SW, 046° Inbnd, 1-minute left turns.
CAUTION: 849′ tower 4.8 miles N of airport.
NOTE: Procedure turn is conducted W to provide separation from traffic at Quonset Point NAS, R.I.
*Greenwich Int: Int PVD VOR R-226 and NCO VOR R-326.

City, Providence; State, R.I.; Airport Name, Green; Elev., 56′; Fac. Class., BVOR; Ident., PVD; Procedure No. Ter VOR-5, Amdt. 3; Eff. Date, 1 Nov. 63; Sup. Amdt. No. 2; Dated, 6 Oct. 62

5. By amending the following very high frequency omnirange-distance measuring equipment (VOR–DME) procedures prescribed in § 97.15 to read:

VOR–DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| 20-mile DME Fix R–107 | 10-mile DME Fix R–107 | Direct | 3600 | T-dn* | 300–1 | 300–1 | 200–½ |
| 10-mile DME Fix R–107 | 6-mile DME Fix R–107 (final) | Direct | 2200 | C-dn | 500–1 | 600–1 | 600–1½ |
| 6-mile DME Fix R–107 | ALB VOR | Direct | 800 | A-dn | 800–2 | 800–2 | 800–2 |

Radar vectoring authorized in accordance with approved patterns.
No procedure turn. Final approach crs, 287° Inbnd.
Minimum altitude over facility on final approach crs, 800′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile, climb to 2000′ on ALB VOR R-356 within 10 miles. Hold N of ALB VOR R-356, 1-minute, right turns, 176° Inbnd.
*300–1 required for takeoffs on Runways 10, 28, 15, and 33.

City, Albany; State, N.Y.; Airport Name, Albany-County; Elev., 288′; Fac. Class., BVORTAC; Ident., ALB; Procedure No. 1, Amdt. 2; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 1; Dated, 25 Aug. 62

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 20-mile DME Fix R–153 | 10-mile DME Fix R–153 | Direct | 3200 | T-dn* | 300–1 | 300–1 | 200–½ |
| 10-mile DME Fix R–153 | 4-mile DME Fix R–153 (final) | Direct | 1400 | C-dn | 500–1 | 600–1 | 600–1½ |
| 4-mile DME Fix R–153 | ALB–VOR | Direct | 800 | A-dn | 800–2 | 800–2 | 800–2 |

Radar vectoring authorized in accordance with approved patterns.
No procedure turn. Final approach crs, 333° Inbnd.
Minimum altitude over facility on final approach crs, 800′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile, climb to 2000′ on ALB VOR R-356 within 10 miles. Hold N of ALB VOR R-356, 1-minute, right turns, 176° Inbnd.
Other change: Deletes transition from 5-mile Fix R–136 to Albany VOR (final).
*300–1 required for takeoffs on Runways 10, 28, 15, and 33.

City, Albany; State, N.Y.; Airport Name, Albany-County; Elev., 288′; Fac. Class., BVORTAC; Ident., ALB; Procedure No. 2, Amdt. 3; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 2; Dated, 15 Sept. 62

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 20-mile DME Fix R–268 | 9-mile DME Fix R–268 | Direct | 3300 | T-dn* | 300–1 | 300–1 | 200–½ |
| 9-mile DME Fix R–268 | 2-mile DME Fix R–268 (final) | Direct | 1200 | C-dn | 600–1 | 700–1 | 700–1½ |
| 2-mile DME Fix R–268 | ALB–VOR | Direct | 900 | A-dn | 800–2 | 800–2 | 800–2 |

Radar vectoring authorized in accordance with approved patterns.
No procedure turn. Final approach crs, 088° Inbnd.
Minimum altitude over facility on final approach crs, 900′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile, make left climbing turn to 2000′ on ALB VOR R-356 within 10 miles. Hold N of ALB VOR R-356, 1-minute, right turns, 176° Inbnd.
CAUTION: 700′ antenna 2.5 miles W of ALB VOR.
*300–1 required on Runways 10, 28, 15, and 33.

City, Albany; State, N.Y.; Airport Name, Albany-County; Elev., 288′; Fac. Class., BVORTAC; Ident., ALB; Procedure No. 3, Amdt. 2; Eff. Date, 2 Nov. 63; Sup. Amdt No. 1; Dated, 25 Aug. 62

VOR–DME STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| 20-mile DME Fix R–299 | 9-mile DME Fix R–299 | Direct | 3000 | T–dn* | 300–1 | 300–1 | 200–½ |
| 9-mile DME Fix R–299 | 2-mile DME Fix R–299 (final) | Direct | 1200 | C–dn | 600–1 | 700–1 | 700–1½ |
| 2-mile DME Fix R–299 | ALB–VOR | Direct | 900 | A–dn | 800–2 | 800–2 | 800–2 |

Radar vectoring authorized in accordance with approved patterns.
No procedure turn. Final approach crs, 119° Inbnd.
Minimum altitude over facility on final approach crs, 900′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile, make right climbing turn to 2000′ on ALB VOR R–356 within 10 miles. Hold N of ALB VOR R–356, 1-minute, right turns, 176° Inbnd.
CAUTION: 700′ antenna 2.5 miles W of ALB VOR.
*300–1 required for takeoffs on Runways 10, 28, 15, and 33.

City, Albany; State, N.Y.; Airport Name, Albany-County; Elev., 288′; Fac. Class., BVORTAC; Ident., ALB; Procedure No. 4, Amdt. 2; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 1; Dated, 25 Aug. 62

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 0.0-mile DME Fix R–146 | 14-mile DME Fix R–146 | Direct | 3100 | T–dn | 1000–2 | 1000–2 | NA |
| 26-mile DME Fix R–146 | 14-mile DME Fix R–146 | Direct | 3100 | C–dn | 1300–2 | 1300–2 | NA |
| 0.0-mile DME Fix R–164 | 14-mile DME Fix R–164 | Direct | 3000 | A–dn | NA | NA | NA |
| 24-mile DME Fix R–164 | 14-mile DME Fix R–164 | Direct | 3000 | | | | |

Procedure turn not authorized DME transitions to final approach required.
Minimum altitude on approach radial 14-mile DME Fix R–164 to 14-mile DME Fix R–146, 3000′; 14-mile DME Fix R–146 to 14-mile DME Fix R–120, 2100′; 14-mile DME Fix R–120 to 14-mile DME Fix R–103,* 1600′.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make a climbing left turn to 3100′ and return to Oakdale Int# on the 14-mile DME arc of GDM VOR, hold SE 326° Inbnd, right turns, 1-minute pattern between the 14- and 17-mile DME fixes.
NOTE: Key position to Runway 32: Int 14-mile DME orbit and R–109 Gardner VOR.
CAUTION: 1230′ antenna 4.0 miles NW of airport.
#Oakdale Int: 14-mile DME Fix GDM–VOR R–146.
*Missed approach fix.

City, Fitchburg; State, Mass.; Airport Name, Fitchburg; Elev., 350′; Fac. Class., BVORTAC; Ident., GDM; Procedure No. VOR/DME No. 1, Amdt. Orig; Eff. Date 2 Nov. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | T–dn | 300–1 | 300–1 | 200–½ |
| | | | | C–dn | 500–1 | 600–1 | 600–1½ |
| | | | | S–dn–7R | 500–1 | 500–1 | 500–1 |
| | | | | A–dn | 800–2 | 800–2 | 800–2 |

Radar vectoring authorized in accordance with approved patterns.
No procedure turn. Final approach crs, 071° Inbnd.
Minimum altitude over 4.0-mile DME fix on final approach crs, 1500′.
Crs and distance, 4.0-mile DME fix to airport, 071°—4.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.6 mile after passing LAX–VOR, climb via R–069 to 2000′ within 15.0 miles.
NOTE: When authorized by ATC, DME may be used between 7.0 and 10.0 miles at 2000′, from R–170 clockwise to R–046, to position aircraft for straight-in approach with elimination of procedure turn.

City, Los Angeles; State, Calif.; Airport Name, International; Elev., 126′; Fac. Class., H–BVOR/DME; Ident., LAX; Procedure No. VOR/DME No. 1, Amdt. Orig; Eff. Date, 2 Nov. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 8.0-mile DME Fix R–069 | 5.0-mile DME Fix R–069 | Direct | 800 | T–dn | 300–1 | 300–1 | 200–½ |
| | | | | C–dn | 500–1 | 600–1 | 600–1½ |
| | | | | S–dn–25L | 400–1 | 400–1 | 400–1 |
| | | | | A–dn | 800–2 | 800–2 | 800–2 |

Radar vectoring authorized in accordance with approved patterns.
No procedure turn. Final approach crs, 249° Inbnd.
Minimum altitude over 8.0-mile DME Fix R–069 on final approach crs, 1800′; over 5.0-mile DME 800′.
Crs and distance, 5.0-mile DME Fix R–069 to airport, 249°—2.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished before reaching 2.6-mile DME Fix R–069, climb direct to LAX VOR, then climb via R–249 to 2000′ within 20 miles of LAX VOR.
NOTE: When authorized by ATC, DME may be used between 9.0 and 16.0 miles, at 3500′ from 323° clockwise to 035°, and at 2000′ from 035° clockwise to 124° to position aircraft for a straight-in approach with the elimination of procedure turn.

City, Los Angeles; State, Calif.; Airport Name, International; Elev., 126′; Fac. Class., H–BVOR/DME; Ident., LAX; Procedure No. VOR/DME No. 1, Amdt. Orig.; Eff. Date, 2 Nov. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 12-mile DME Fix R–047 | 8-mile DME Fix R–047 (final) | Direct | 2000 | T–dn | 300–1 | 300–1 | 200–½ |
| 8-mile DME Fix R–047 | 5-mile DME Fix R–047 (final) | Direct | 1200 | C–dn | 600–1 | 600–1 | 600–1½ |
| | | | | S–dn–23L&R | 500–1 | 500–1 | 500–1 |
| | | | | A–dn | 800–2 | 800–2 | 800–2 |

Radar vectoring by Quonset Point RATCC authorized in accordance with approved patterns.
Procedure turn-N side of crs, 047° Outbnd, 227° Inbnd, 2000′ within 12 miles. Beyond 12 miles not authorized.
Inbnd crs from procedure turn must be intercepted prior to 8-mile DME Fix R–047. Descent below 2000′ not authorized before passing 8-mile DME fix on final.
Minimum altitude over facility on final approach crs, 600′.
Facility on airport. No runway centerline provided to allow use of dual runways.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of PVD–VOR, make right climbing turn to 2300′, proceeding to Foster Int. Hold SW on ORW–VOR R–057, 1-minute, left turns.
NOTE: When authorized by ATC, DME may be used within 12 miles at 2000′ between R–031 and R–059 to position aircraft for a straight-in approach with the elimination of the procedure turn.
CAUTION: 849′ tower 4.8 miles N of airport.

City, Providence; State, R.I.; Airport Name, Green; Elev., 56′; Fac. Class., BVORTAC; Ident., PVD; Procedure No. VOR/DME No. 1, Amdt. Orig.; Eff. Date, 2 Nov. 63, or upon commissioning of the Providence VORTAC

VOR–DME STANDARD INSTRUMENT APPROACH PROCEDURE

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| RST VOR | 13-mile DME Fix R–024 | Direct | 2600 | T–dn | 300–1 | 300–1 | 200–½ |
| | | | | C–dn | 500–1 | 500–1 | 500–1½ |
| | | | | S–dn | 500–1 | 500–1 | 500–1 |
| | | | | A–dn | 800–2 | 800–2 | 800–2 |

Procedure turn W side of crs, 024° Outbnd, 204° Inbnd, 2600′ between 13 and 23 miles.
Minimum altitude over 13-mile DME Fix R–024 on final approach crs, 2100′.
Crs and distance, 13-mile DME fix to airport, 204°—4.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 9-mile DME Fix R–024, climb to 3000′ on R–024 direct to RST VOR.
NOTE: When authorized by ATC, DME may be used to position aircraft on final approach course at 2600′ between R–314 clockwise to R–076 via 18-mile DME arc with the elimination of procedure turn.

City, Rochester; State, Minn.; Airport Name, Municipal; Elev., 1310′; Fac. Class., M–BVOR–DME; Ident., RST; Procedure No. VOR/DME No. 2, Amdt. Orig.; Eff. Date, 2 Nov. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 10-mile DME Fix R–347 | STJ VOR | Direct | 2700 | T–dn* | 300–1 | 300–1 | 200–½ |
| STJ VOR | 6-mile Fix R–167 | Direct | 1800 | C–dn | 600–1 | 600–1 | 600–1½ |
| | | | | S–dn–17 | 600–1 | 600–1 | 600–1 |
| | | | | A–dn | 800–2 | 800–2 | 800–2 |

Procedure turn W side of crs, 347° Outbnd, 167° Inbnd, 2700′ within 10 miles.
Minimum altitude over facility on final approach crs, 2700′.
Crs and distance, facility to airport, 167°—10.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 10.7-mile DME Fix R–167, climb to 2700′ on R–167 within 20 miles.
NOTE: When authorized by ATC, DME may be used within 10 miles at 2700′ altitude to position aircraft for final approach with the elimination of procedure turn between radials 270° clockwise to 090°.
CAUTION: 300′ bluffs W, NW and E of airport.
*Takeoff minimums no lower than 300–1 authorized on Runway 31.

City, St. Joseph; State, Mo.; Airport Name, Rosecrans Memorial; Elev., 822′; Fac. Class., BVORTAC; Ident., STJ; Procedure No. VOR/DME No. 1, Amdt. Orig.; Eff. Date, 2 Nov. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 10-mile DME Fix R–013 | SGF VOR | Direct | 2800 | T–dn | 300–1 | 300–1 | 200–½ |
| SGF VOR | 4-mile DME Fix R–193 | Direct | 1800 | C–dn | 400–1 | 500–1 | 500–1½ |
| | | | | S–dn–19 | 400–1 | 400–1 | 400–1 |
| | | | | A–dn | 800–2 | 800–2 | 800–2 |

Procedure turn W side of crs, 013° Outbnd, 193° Inbnd, 2800′ within 10 miles.
Minimum altitude over facility on final approach crs, 2800′.
Crs and distance, facility to airport, 193°—6.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 6.8-mile DME Fix R–193, climb to 3200′ on R–203 SGF VOR and proceed to Billings Int.
NOTES: When authorized by ATC, DME may be used to position aircraft on final approach course at 2800′ between R–254 clockwise to R–072 via 10-mile DME arc with the elimination of the procedure turn.

City, Springfield; State, Mo.; Airport Name, Springfield Municipal; Elev., 1267′; Fac. Class., BVORTAC; Ident., SGF; Procedure No. VOR/DME No. 1, Amdt. Orig.; Eff. Date, 2 Nov. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 12-mile DME Fix R–276 | LAX VOR | Direct | 3000 | T–dn | 300–1 | 300–1 | 200–½ |
| 9-mile DME Fix R–323 | LAX VOR | Direct | 3000 | C–dn | 800–1 | 800–1 | 800–1½ |
| 8-mile DME Fix R–340 | LAX VOR | Direct | 3000 | A–dn | 1000–2 | 1000–2 | 1000–2 |

Radar vectoring authorized in accordance with approved patterns.
Procedure turn, teardrop—R–276 Outbnd to 7.0-mile DME fix; orbit clockwise via 7.0 mile DME to R–315. Minimum altitude, 3000′.
Minimum altitude over LAX VOR on final approach crs, 3000′; at 5.7-mile DME fix R–135, 1300′.
Crs and distance, 5.7-mile DME fix R–135 to airport, 135°—2.9 miles; breakoff point to runway, 135°—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 8-mile DME fix R–135, turn left, climb via 8.0-mile DME orbit to R–111, climb Inbnd to 6-mile DME fix R–111 at 2000′.
NOTES: When authorized by ATC, DME may be used within 7.0 miles at 2000′ from 205° clockwise to 123° to position aircraft for a straight-in approach with elimination of the procedure turn.

City, Torrance; State, Calif.; Airport Name, Torrance Municipal; Elev., 95′; Fac. Class., H–BVOR/DME; Ident., LAX; Procedure No. VOR/DME No. 1, Amdt. Orig.; Eff. Date, 2 Nov. 63

6. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| Cincinnati VOR | CV-LOM | Direct | 2000 | T-dn | 300-1 | 300-1 | 200-½ |
| New Baltimore Int | CV-LOM | Direct | 2300 | C-dn | 400-1 | 500-1 | 500-1½ |
| Cincinnati LFR | CV-LOM | Direct | 2700 | S-dn-36*# | 200-½ | 200-½ | 200-½ |
| Dry Ridge Int | Union Int | Direct | 2400 | A-dn | 600-2 | 600-2 | 600-2 |
| Union Int | CV-LOM (Final) | Direct | 2000 | | | | |
| Mt. Healthy Int | CV-LOM | Direct | 2400 | | | | |

Radar vectoring authorized in accordance with approved patterns.
Procedure turn E side of crs, 180° Outbnd, 360° Inbnd, 2000′ within 10 miles.
Minimum altitude at glide slope Int Inbnd, 2000′.
Altitude of glide slope and distance to approach end of runway at OM, 1960′—3.8 miles; at MM, 1069′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2700′ on crs 360° to the New Baltimore Int. Hold 1-minute right turns, 186° Inbnd, 006° Outbnd.
CAUTION: #Glide slope point of touchdown approximately 1750′ in from approach end of runway.
*400-¾ required with glide slope inoperative.

City, Covington; State, Ky.; Airport Name, Greater Cincinnati; Elev., 890′; Fac. Class., ILS; Ident., I-CVG; Procedure No. ILS-36, Amdt. 18; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 17; Dated, 20 Apr. 63

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Morey Int | LOM | Direct | 2700 | T-dn | 300-1 | 300-1 | 200-½ |
| Brooklyn Int* | LOM (final) | Direct | 2100 | C-dn | 600-1 | 600-1 | 600-1½ |
| Marshall Int | LOM | Direct | 2600 | S-dn-36** | 200-½ | 200-½ | 200-½ |
| | | | | A-dn | 600-2 | 600-2 | 600-2 |

Procedure turn E side of crs, 179° Outbnd, 359° Inbnd, 2600′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2100′.
Altitude of glide slope and distance to approach end of runway at OM, 1918′—3.9 miles; at MM, 1056′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2600′ on 359° bearing from LOM within 10 miles or, when directed by ATC, make right climbing turn to 2600′ and proceed direct to Madison LOM.
CAUTION: 1211′ tower 1.3 miles to left of crs after passing LOM on final and 1023′ pole 0.8 mile to left of crs and 0.8 mile SW of Runway 36.
NOTE: Final approach from holding pattern at LOM not authorized. Procedure turn required. When weather is below 2000-2, aircraft departing southwest bound, flight below 2700′ beyond 4 miles from airport is prohibited between radials 201 and 257, inclusive, of the TAX-VOR due to 2227′ tower 9 miles SW of airport.
*Brooklyn Int: Int JVL VOR R-327 and S crs ILS.
**400-¾ required when glide slope not utilized.

City, Madison; State, Wis.; Airport Name, Truax Field; Elev., 859′; Fac. Class., ILS; Ident., I-MSN; Procedure No. ILS-36, Amdt. 9; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 8; Dated, 20 Oct. 62

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Monroe VOR | LOM | Direct | 1600 | T-dn | 300-1 | 300-1 | 200-½ |
| | | | | C-dn | 400-1 | 500-1 | 500-1½ |
| | | | | S-dn-4 | 300-¾ | 300-¾ | 300-¾ |
| | | | | A-dn | 600-2 | 600-2 | 600-2 |

Procedure turn S side of crs, 218° Outbnd, 038° Inbnd, 1600′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude at glide slope interception Inbnd, 1200′.
Altitude of glide slope and distance to approach end of runway at OM 1187′—4.2 miles; at MM 256′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles after passing ML-LOM, climb to 1600 on NE crs ILS (038°) within 10 miles.
Other changes: Deletes transition from Monroe LFR. Deletes CAUTION NOTE and AIR CARRIER NOTE.

City, Monroe; State, La.; Airport Name, Selman; Elev., 79′; Fac. Class., ILS; Ident., I-MLU; Procedure No. ILS-4, Amdt. 3; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 2 (ILS portion Comb. ILS-ADF); Dated, 7 Dec. 57

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Harbor View Int | Holland Int (final) | Direct | 2000 | T-dn | 300-1 | 300-1 | 200-½ |
| | | | | C-dn | 500-1 | 500-1 | 500-1½ |
| | | | | S-dn-25 | 400-1 | 400-1 | 400-1 |
| | | | | A-dn | 800-2 | 800-2 | 800-2 |

Radar vectoring authorized in accordance with approved radar patterns.
Procedure turn N side of crs, 069° Outbnd, 249° Inbnd, 2600′ within 10 miles of Holland Int.
No glide slope or markers. Descend to landing minimums after passing Holland Int. Minimum altitude over Holland Int, 2000′.
Crs and distance, Holland Int to Runway 25, 249°—4.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.7 miles after passing Holland Int, climb straight ahead to 2000′ on 249° crs to Toledo LOM. Hold SW Toledo LOM, right turns, 1-minute, 069° Inbnd.
CAUTION: Tower 865′ 1¾ miles S of middle marker.

City, Toledo; State, Ohio; Airport Name, Toledo Express; Elev., 684′; Fac. Class., ILS; Ident., I-TOL; Procedure No. ILS-25, Amdt. 5; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 4; Dated, 11 Nov. 61

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Youngstown VOR | Hubbard RBn | Direct | 2800 | T-dn | 300-1 | 300-1 | 200-½ |
| Hubbard RBn | LOM (final) | Direct | 2700 | C-dn | 400-1 | 500-1 | 500-1½ |
| Mercer Int | Hubbard RBn | Direct | 3000 | S-dn-32 | 200-½ | 200-½ | 200-½ |
| Sharpsville Int | Hubbard RBn | Direct | 2800 | A-dn | 600-2 | 600-2 | 600-2 |
| Palestine Int | Hubbard RBn | Direct | 3000 | | | | |
| Canfield Int | Hubbard RBn | Direct | 3000 | | | | |

Procedure turn N side of crs, 140° Outbnd, 320° Inbnd, 2800′ within 10 miles of Hubbard RBn.*
Minimum altitude at glide slope interception Inbnd, 2700′.
Altitude of glide slope and distance to approach end of runway at OM 2630′—4.7 miles; at MM 1385′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2700′ straight ahead, make right turn and proceed to Youngstown VOR. Hold N on R-003 YNG-VOR, 1-minute right turns, 183° Inbnd at 2700′.
*Procedure turn predicated on Hubbard RBn. Maintain 2800′ until intercepting glide slope Inbnd or passing Hubbard RBn.

City, Youngstown; State, Ohio; Airport Name, Youngstown; Elev., 1196′; Fac. Class., ILS; Ident., I-YNG; Procedure No. ILS-32, Amdt. 10; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 9; Dated, 25 May 63

7. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| From— | To— | Course and distance | Minimum altitude (feet) | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| All directions | | Within 20 miles | #2500 | Surveillance approach | | | |
| | | | | T-dn | 300–1 | 300–1 | 200–½ |
| | | | | C-dn | 400–1 | 500–1 | 500–1¼ |
| | | | | S-dn-all | 400–1 | 400–1 | 400–1 |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |
| | | | | Precision approach | | | |
| | | | | T-dn** | 300–1 | 300–1 | 200–½ |
| | | | | C-dn | 400–1 | 500–1 | 500–1¼ |
| | | | | S-dn-4** | 200–½ | 200–½ | 200–½ |
| | | | | A-dn | 800–2 | 800–2 | 800–2 |

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, all runways: Climb to 3000′ and proceed via R–285 of Shelbyville to Shelbyville VOR or, when directed by ATC, (1) climb to 3000′ on NE crs ILS and proceed to Castleton Int; (2) climb to 3000′ and proceed direct to IND-VOR.

NOTE: Aircraft executing missed approach may, after being reidentified, be radar controlled.

#2800′ within 3 miles of two 1849′ towers NE of airport; 2900′ within 3 miles of 1852′ tower E and NE of airport.

#Vectoring altitudes 2600′ within 3–5 miles and 3100′ within 3 miles of 2100′ tower 20.5 miles SSE.

** Runway visual range 2600′ also authorized for landing on Runway 4; provided that all components of the PAR, high-intensity runway lights, approach lights, condenser-discharge flashers, middle and outer compass locators and all related airborne equipment are operating satisfactorily. Descent below the authorized landing minimum altitude of 997′ MSL shall not be made unless visual contact with the approach lights has been established or the aircraft is clear of clouds.

#Runway visual range 2600′ also authorized for takeoff on Runway 4 in lieu of 200–½ when 200–½ is authorized, provided high intensity runway lights are operational.

City, Indianapolis; State, Ind.; Airport Name, Weir Cook; Elev., 797′; Fac. Class., Weir Cook Radar; Procedure No. 1, Amdt. 11; Eff. Date, 2 Nov. 63; Sup. Amdt. No. 10; Dated, 25 Feb. 61

| Transition | | | | Ceiling and visibility minimums | | | |
|---|---|---|---|---|---|---|---|
| Within 10 miles | Within 15 miles | Within 20 miles | Within 30 miles | Condition | 2-engine or less | | More than 2-engine, more than 65 knots |
| | | | | | 65 knots or less | More than 65 knots | |
| 003°–085°, 5100′ | | 003°–019°, 6400′ | 007°–019°, 6400′ | Surveillance approach | | | |
| 085°–160°, 6100′ | | 019°–058°, 5100′ | 019°–028°, 5100′ | | | | |
| 160°–209°, 5500′ | | 058°–085°, 4800′ | 028°–058°, 6400′ | T-dn | 300–1 | 300–1 | 200–½ |
| 209°–260°, 6000′ | | 085°–103°, 5200′ | 058°–065°, 4900′ | C-dn | 500–1 | 500–1 | 500–1½ |
| 260°–314°, 7800′ | | 103°–160°, 6100′ | 065°–096°, 6800′ | C-dn–1, 7* | 600–1 | 600–1 | 600–1½ |
| 314°–329°, 4900′ | | 160°–204°, 7000′ | 096°–115°, 5200′ | S-dn–25 | 400–1 | 400–1 | 400–1 |
| 329°–003°, 4000′ | | 204°–211°, 8500′ | 115°–150°, 6100′ | S-dn–1, 7* | 600–1 | 600–1 | 600–1 |
| | | 211°–249°, 9500′ | 150°–185°, 8000′ | A-dn | 800–2 | 800–2 | 800–2 |
| | | 249°–255°, 8500′ | 185°–204°, 7000′ | | | | |
| | 255°–314°, 9200′ | 255°–314°, 13,000′ | 204°–211°, 8500′ | | | | |
| | | 314°–003°, 8100′ | 211°–249°, 9500′ | | | | |
| | | | 249°–255°, 8500′ | | | | |
| | | | 255°–311°, 13,000′ | | | | |
| | | | 311°–318°, 7000′ | | | | |
| | | | 318°–007°, 10,700′ | | | | |

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, Runway 1: Turn right, climb via LAS R–065 to 5000′ at Kids Int. Runways 7, 25: Turn left, climb via LAS R–065 to 5000′ at Kids Int.

*Aircraft Inbnd on final approach to Runway 1 or 7 will descend not lower than 3100′ until pilot is notified by radar approach control that he has passed a point 3 miles before the runway.

City, Las Vegas; State, Nev.; Airport Name, McCarran Field; Elev., 2171′; Fac. Class. and Ident., Las Vegas Radar; Procedure No. 1, Amdt. Orig.; Eff. Date, 2 Nov. 63

These procedures shall become effective on the dates specified therein.

These amendments are made under the authority of sections 307(c), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775).

Issued in Washington, D.C., on September 27, 1963.

G. S. MOORE,
*Director, Flight Standards Service.*

[F.R. Doc. 63–10523; Filed, Oct. 23, 1963; 11:33 a.m.]

# Title 32—NATIONAL DEFENSE

## Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

## PART 66—RELEASE OF INFORMATION FROM MEDICAL RECORDS

### Miscellaneous Amendments

1. Section 66.2 is amended by inserting the following agencies as paragraphs (n) and (o):

§ 66.2 **Individuals and agencies to whom medical records may be released.**

* * * * *

(n) Social Security Administration.

(o) National Aeronautics and Space Administration.

* * * * *

2. Reletter the present paragraphs (n) through (u) as (p) through (w) respectively.

MAURICE W. ROCHE,
*Administrative Secretary.*

[F.R. Doc. 63-11247; Filed, Oct. 23, 1963; 8:47 a.m.]

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## Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

## MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

This subchapter is amended in detail as set forth below:

## PART 590—GENERAL PROVISIONS

1. F.R. Document 63-9378, appearing at 28 F.R. 9565, August 31, 1963, is corrected by changing the reference to "§ 590.150", at the beginning of paragraph 1, to read "§ 590.150 (a) and (b)".

1a. The introductory portion of § 590.302-51 is revised; and in § 590.350, the introductory portion of paragraph (b) and paragraph (b)(8) are revised, as follows:

§ 590.302-51 **Procurement during national emergency.**

Department of Defense policies with respect to procurement by formal advertising and by negotiation are set forth in §§ 1.300, 2.102 and 3.102 of this title. All procuring activities and agencies shall give particular attention to the following factors in effecting procurement:

* * * * *

§ 590.350 **Advance procurement planning.**

* * * * *

(b) Each head of procuring activity is responsible for the accomplishment of advance procurement planning. One of the primary purposes shall be to achieve competition in procurement whenever feasible. Another basic objective of such planning is to develop requests for proposals, invitations for bids, and contracts which are expressed in concise, intelligible, and consistent language. Drawings must be consistent with specifications; standards and specifications incorporated by reference must be kept to a minimum; and references to standard specifications having no significance must be eliminated. When a "brand name or equal" specification is necessary, genuine effort will be made to name in the specification several brand names considered to be equal. Requirements personnel shall be directed to accommodate their efforts to the realities of procurement procedures and policies; e.g., they shall not include in special provisions or specifications subject matter or clauses which cover the same ground as prescribed general provisions or conflict therewith; they shall not, without meticulous justification, use restrictive specifications; they shall make every effort to insure that the requirements as described in the contract are complete and unambiguous. Required planning shall include analysis and thinking through all stages of the procurement up to and including contract completion. One important aspect of the "thinking through" process is a tentative determination of the type of contract (Subpart D, Part 3 of this title) which is considered to be most advantageous to the Government. Development contracts shall be examined by qualified technical personnel for feasibility of obtaining definitive specifications on components as to which design is stable and for which future procurement is contemplated. Incentive contracts shall be analyzed for all possible "break-even" points, for ambiguities in terminology, requirements, or target descriptions, and for combinations of possibilities under any multiple incentives which could result in an undesirable end product or an exorbitant profit. Such planning shall provide for the following as appropriate:

* * * * *

(8) Dissemination of information regarding availability of procurement data adequate for competitive procurement.

2. In § 590.452(c)(1), revise subdivisions (i) and (ii) to read as follows:

§ 590.452 **Selection and appointment of ordering officers.**

* * * * *

(c) *Authority.* (1) * * *

(i) Commissary ordering officers may make purchases in unlimited dollar amounts against Purchase Notice Agreements published in the SB 10-500-series by signing and using DD Form 1155; they may place oral calls or informal requests against charge accounts established by contracting officers, in amounts of not more than $2,500 for each call or request for brand name resale items, and without dollar limitation for perishable subsistence items; and they may order from those Federal Supply Schedules which are mandatory on commissaries.

(ii) Accountable property officers appointed as ordering officers, may, subject to availability of funds and approval of the contracting officer concerned, sign and place delivery orders (DD Form 1155) without limitation on dollar amounts against General Services Administration (GSA) Stores Depots, Federal Supply Schedules, Federal Stock Pile items maintained by the Defense Materials System of GSA, and indefinite delivery type contracts (see also § 594.204 of this chapter).

* * * * *

3. Section 590.650-4 is revised and § 590.650-5 is revoked as follows:

§ 590.650-4 **Submission.**

(a) When all of the information required by § 590.650-3 is not immediately available, the report shall be prepared and forwarded with the information at hand; failure to include in the initial report any of the items set forth in § 590.650-3 shall be explained. The additional information, any changes to the information furnished, and information on all developments in the matter shall be promptly forwarded.

(b) Three complete copies of each report prepared pursuant to §§ 590.650—590.650-4 shall be forwarded to the addressee in § 590.150(b)(2); one copy, without inclosures or exhibits, to the addressee in § 590.150(b)(6); and one copy, without inclosures or exhibits, to The Inspector General, Department of the Army, Washington, D.C., 20310. Each successive echelon in the procurement channel shall attach its comments and recommendations, particularly as to § 590.650-3 (g), (h) and (i). (See § 590.150(a).)

§ 590.650-5 **Distribution of reports. [Revoked]**

4. New Subparts G and H are added, to read as follows:

Subpart G—Small Business Concerns

Sec.


590.701-50 Fair proportion.
590.701-51 Equitable opportunity.
590.702 General policy.
590.704-2 Departmental Small Business advisors.
590.704-3 Small Business specialists.
590.704-50 Functions of the Small Business and Labor Surplus Advisor.
590.704-51 Army Small Business and Labor Surplus Council.
590.705-2 SBA representatives.
509.705-6 Certificates of competency.
590.706-2 Review of SBA set aside proposals.
590.706-3 Withdrawal or modification of set-asides.
590.706-50 Small Business set-asides for construction (new construction and repairs and utilities procurements).
590.706-51 Set-aside policy; procurements between $2,500 and $50,000 other than construction.
590.752 Presolicitation data on proposed procurement action (DA Form 1877).


Subpart H—Labor Surplus Area Concerns


590.801-50 Economic Utilization Program.
590.802-50 General policy.
590.803-50 Identification of Labor Surplus Area Concerns.
590.803-51 Techniques of operation.


AUTHORITY: §§ 590.701-50 to 590.803-51 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

## Subpart G—Small Business Concerns

§ 590.701-50 **Fair proportion.**

A "fair proportion of the total purchases and contracts for supplies and services to be placed with small business concerns" is defined as that proportion to which small business concerns are entitled after competition, provided small

business concerns are given an equitable opportunity to compete for the purchases and contracts.

**§ 590.701–51 Equitable opportunity.**

An "equitable opportunity to compete" is defined as that opportunity which exists when the following conditions are met:

(a) Small business concerns are afforded the opportunity of being placed on all bidders mailing lists for which they are qualified;

(b) Small business concerns who are on bidders mailing lists receive invitations for bids, requests for proposals, or requests for quotations;

(c) An equitable number of small business concerns are included among those firms solicited, when solicitations are rotated among bidders on the list (see §§ 1.702(b)(2) and 1.803(a)(5), of this title);

(d) Either the quantities are appropriate for supply by small business concerns or partial bidding is permitted;

(e) Specifications are adequate and clear;

(f) Drawings are available or, where drawings are not available, the solicitation states where the drawings may be reviewed;

(g) Delivery schedules are realistic and reasonable; and

(h) Sufficient time has been allowed for the preparation of a bid, proposal, or quotation.

**§ 590.702 General policy.**

(a) The responsibility for conscientiously and effectively carrying out the policies, procedures, and the aims of the Department of the Army Small Business Program will be the responsibility of all personnel engaged in procurement and related activities, including small business and labor surplus advisors, within the Department of the Army. To the extent that labor surplus area programs of the Department of the Army complement the small business program, this subpart is also applicable.

(b) In addition to the policy expressed in § 1.702 of this title every due consideration shall be given at all echelons to include small business concerns in the following:

(1) Current procurement, including research and development;

(2) Mobilization production schedules;

(3) Industrial mobilization aspects of mobilization capacity studies;

(4) Standardization of specifications;

(5) Standardization of equipment;

(6) Production allocation programs (including materials, products and equipment);

(7) Industrial equipment activities;

(8) Production equipment distribution;

(9) Equipment rentals; and

(10) Labor surplus area preference.

(c) Liaison shall be maintained and information exchanged with Federal, State (including Governors' Commissions), local and community agencies and organizations for the purpose of rendering the maximum amount of assistance to small business concerns. Procedures shall be developed, as necessary, to insure full utilization of data and information relating to small business concerns received from such agencies and organizations.

**§ 590.704–2 Departmental Small Business Advisors.**

The Department of the Army Small Business advisor advises the Secretary of the Army and subordinate staff elements on all matters relating to the establishment and execution of the Department of the Army Small Business Program. He shall be familiar with the policies and procedures implementing the Department of Defense Small Business Program.

**§ 590.704–3 Small Business Specialists.**

Within the Department of the Army, the Small Business Program and the Labor Surplus Area Program are administered jointly and are a concurrent responsibility of Small Business and Labor Surplus Advisors. Because of the dual responsibility for Small Business and Labor Surplus Area Programs within the Department of the Army, Small Business Specialists (as defined in § 1.704–3 of this title) will be identified as "Small Business and Labor Surplus Advisors" and shall perform the duties and functions required of both programs.

(a) *Selection and appointment of Small Business and Labor Surplus Advisors*—(1) *Appointing authority.* Small Business and Labor Surplus Advisors as defined above, shall be appointed by the heads of procuring activities. Appointments shall be made on a full time or part time basis consistent with the procurement mission of the installation or activity concerned. Authority to appoint Small Business and Labor Surplus Advisors shall not be redelegated below the level of the Deputy or a principal assistant in the headquarters office responsible for procurement.

(2) *Selection and evaluation.* Comparable requirements and qualifications as set forth in § 590.450 for the selection and evaluation of contracting officers shall be used as a guide in establishing qualifications and determining the responsibilities for each appointment. Only those individuals possessing the necessary business acumen, knowledge of Army procurement policies and procedures, training and background to accomplish effectively the objectives of the Small Business and Labor Surplus Area Programs shall be considered for appointment.

(3) *Surveillance.* In view of the public relations implications inherent in the manner in which the the duties are performed, care shall be exercised to insure that only well qualified individuals are appointed and retained in such positions, whether the duty is performed on a full or part time basis. Performance of duties as Small Business and Labor Surplus Advisor shall therefore be kept under close surveillance.

(4) *Appointment.* Designation by name of each Small Business and Labor Surplus Advisor shall be by a document, signed by the appointing authority, which shall include a statement of the specific authorities delegated to such appointee. Such designation shall be rescinded in the same manner upon termination of the individual's assignment as Small Business and Labor Surplus Advisor. In any instance where the duty of a Small Business and Labor Surplus Advisor is on a part-time basis, the appointment shall clearly indicate that assignment of such additional duty in no way relieves the individual from full responsibility for effectively accomplishing the Department of the Army Small Business and Labor Surplus Area Program requirements.

**§ 590.704–50 Functions of the Small Business and Labor Surplus Advisor.**

To accomplish effectively the objectives of the Small Business and Labor Surplus Area Programs of the Department of the Army, Small Business and Labor Surplus Advisors shall be guided by the functional responsibilities set forth below and the operating techniques outlined in Subpart H of this part, consistent with the mission requirements of the installation or activity at which he serves. These functions and operating techniques are not to be considered limiting or all-encompassing as to the desired end result which is an effective and efficient program within the Department of the Army at all echelons. The Small Business and Labor Surplus Area Advisor:

(a) Serves as a point of reference and coordination to which small business and labor surplus area concerns may make or direct inquiry concerning participation in the military procurement program;

(b) Furnishes counsel and guidance relative to the Department of the Army policies and procedures with which small business and labor surplus area concerns are required to comply in order to become responsible suppliers and be placed on appropriate bidders lists;

(c) Seeks to encourage additional competent small business and labor surplus area sources to participate in procurements to meet current and anticipated requirements;

(d) Discusses with representatives of small business and labor surplus area concerns the relative merits of competing for prime contracts versus seeking to subcontract;

(e) Discusses capacity of equipment, availability of manpower, and management skill with representatives of small business and labor surplus area concerns and appraises their possible use in military procurement programs for the purpose of current procurement or industrial mobilization programs;

(f) When designated, represents his procuring activity or purchasing office at meetings with industry and with other government agencies in matters relating to the Small Business and Labor Surplus Area Program;

(g) Maintains liaison and effects coordination with personnel responsible for procurement policies and procedures and takes necessary action, including making recommendations for policies and procedures, to insure small business is given consideration as an important element in procurement planning and industrial mobilization;

(h) Analyzes and evaluates the effect of procurement policies and procedures

promulgated throughout the Department of Defense to insure such policies and procedures give consideration and opportunity to small business and labor surplus area concerns to participate in Army procurement programs;

(i) Reviews proposed procurements (other than small purchases accomplished under Subpart F, Part 3 of this title and Subpart F, Part 592 of this chapter) to determine suitability for participation by small business and labor surplus area concerns. Additional reviews at levels higher than the purchasing office shall be made when appropriate or as directed by the head of procuring activity concerned. In no event shall the procurement processes be unnecessarily delayed because of review requirements;

(j) If located at a headquarters or supervisory level, visits field purchasing offices and agencies at periodic intervals to assure compliance with the small business program and policies;

(k) Consults with procurement commodity specialists and research and development personnel for the purpose of recommending small business or labor surplus area concerns competent to perform a proposed contract;

(l) Maintains an active monitorship over procurement programs to insure prompt utilization of the breakout and other precedures instituted to increase competitive procurement;

(m) Serves as advisor and consultant to contracting officers and personnel in related activities in connection with specific major procurements to insure that a full awareness of under-utilized economic resources (small business community and labor surplus area) are known and taken into consideration prior to making decisions on such major procurements;

(n) Participates as a voting member in meetings of Boards of Contract Awards and other procurement groups, where such boards or groups are established; and

(o) Prepares plans, policies, and procedures, including manuals, booklets and other aids, to insure maximum use of small business and labor surplus area concerns in procurement programs.

### § 590.704–51 Army Small Business and Labor Surplus Council.

(a) *Establishment.* There is established a Department of the Army Small Business and Labor Surplus Council. Chariman of the Council shall be the Department of the Army Small Business Advisor. Membership in the Council shall be composed of representatives of the U.S. Army Materiel Command, the U.S. Army Continental Army Command, and such other commands or procuring activities as may be designated by the Chariman from time to time.

(b) *Purpose and function.* (1) The purpose of the Council is to assist Army Small Business and Labor Surplus Advisors in developing uniform policies and procedures concerning small business and labor surplus area matters.

(2) The Council shall meet at the call of the Chairman to discuss special problems arising within the Department of the Army which have or may have an impact on small business or labor surplus area programs or policies.

(3) The Council shall consider submissions from field activity Small Business and Labor Surplus Advisors made through the advisors at procuring activity level for the purpose of making these programs more effective.

### § 590.705–2 SBA representatives.

The SBA representatives shall be informed concerning the procurement missions of the purchasing offices under his cognizance. Security clearance for SBA personnel shall be the joint responsibility of SBA and the appropriate Department of the Army element to which SBA personnel are assigned.

### § 590.705–6 Certificates of competency.

(a) In the event that the contracting officer questions the issuance or the proposed issuance of a certificate of competency after complete interchange of information with the SBA, he shall:

(1) Withhold award of the contract, pending a decision by higher authority; and

(2) Promptly forward to the head of procuring activity concerned a written request for withdrawal of the certificate. Such request shall be supported by a complete statement of the facts leading to the contracting officer's determination that the certificate should not be accepted. If the head of procuring activity supports the views of the contracting officer he shall refer the request to the addressee listed in § 590.150(b)(6) for an appeal to the SBA. The head of procuring activity and the contracting officer shall be notified promptly of the result of such appeal.

(b) With respect to default, see § 597.602–3 of this chapter.

### § 590.706–2 Review of SBA set-aside proposals.

(a) Where the SBA representative appeals the contracting officer's disapproval of a recommended set-aside or requests the suspension of a procurement action, the appeal or request shall be made in writing.

(b) Where the contracting officer has been notified that an appeal has been taken by the SBA Administrator under § 1.706–2 of this title, the following procedure shall apply:

(1) The contracting officer shall suspend further action pending a decision by higher authority;

(2) The contracting officer shall promptly forward to the head of procuring activity concerned a complete statement of the facts, including a written justification for the contracting officer's decision; and

(3) The head of procuring activity shall forward the material furnished in accordance with subparagraph (2) of this paragraph, together with pertinent recommendation thereon, to the addressee listed in § 590.150(b)(6).

### § 590.706–3 Withdrawal or modification of set-asides.

The review required by § 1.706–3(a) of this title for each individual procurement governed by a class set-aside shall be effected prior to solicitation.

### § 590.706–50 Small Business set-asides for construction (new construction and repairs and utilities procurements).

(a) Department of the Army agencies shall consider that the SBA has initiated an automatic joint set-aside request for each proposed construction procurement estimated to cost between $2,500 and $500,000, including new construction, repair, maintenance and alterations of structures. This policy is in effect in the United States and Puerto Rico.

(b) All proposed procurements for construction to be accomplished in the United States and Puerto Rico pursuant to paragraph (a) of this section shall be processed in accordance with the policy, criteria and procedures set forth in § 1.706 of this title. All construction procurements over $500,000 shall be handled on a case-by-case basis in accordance with § 1.706 of this title and §§ 590.706–2 to 590.706–51.

(c) Proposed procurements for Capehart housing construction are not subject to set-asides.

### § 590.706–51 Set-aside policy; procurements between $2,500 and $50,000 other than construction.

(a) Consistent with policies for increasing the number of awards to small business, contracting officers shall take positive action to assure attainment of the Army's objective. The wider use of 100 percent set-asides for small business is one way to accomplish such actions. When consistent with the applicable criteria in § 1.706 of this title, contracting officers shall make 100 percent small business set-asides in all procurements which are over $2,500 but do not exceed $50,000 where there are available a sufficient number of small business concerns to assure competition and fair and reasonable prices. The assistance of the Small Business Administration shall be solicited, if necessary, for compilation of an adequate small business bidders list. Set-asides shall not be dissolved on account of the prices offered by small business concerns unless the chief of the purchasing office determines that the quoted prices are not fair and reasonable.

(b) Before solicitation, the Small Business and Labor Surplus Advisor shall review each proposed procurement estimated to cost over $2,500 to determine that an equitable opportunity has been given to small business concerns and that the labor surplus area and small business policies have been carried out in accordance with Subparts G and H, Part 1 of this title and Subparts G and H of this part, and other Department of the Army policies.

(c) The contracting officer shall process each proposed procurement which is estimated to cost more than $2,500, but not more than $50,000, as though the Small Business and Labor Surplus Advisor had requested first, a labor surplus area set-aside, and second, a small business set-aside. Where neither a labor surplus area set-aside nor a small business set-aside is made, the contract file shall contain clear and concise reasons for not making a set-aside.

(d) The foregoing is not intended to limit the Small Business Administration's right to screen and to initiate joint set-asides as authorized in Subchapter A, Chapter I of this title and this subchapter.

(e) Small Business and Labor Surplus Advisors and contracting officers authorized to perform the functions of Small Business and Labor Surplus Advisors as an additional duty shall be responsible for the functions outlined in this section.

**§ 590.752 Presolicitation data on proposed procurement action (DA Form 1877).**

(a) *Purpose.* DA Form 1877 is a management tool for summarizing the screening of proposed procurements to determine whether an equitable opportunity has been afforded small business concerns. It is not intended that the preparation of this form, or its review, coordination, and analysis should delay the accomplishment of any procurement. Requirements for preparation of this form shall not supersede requirements for procurement justifications, and determinations and findings as may be required elsewhere in Subchapter A, Chapter I of this title and this subchapter.

(b) *Preparation of DA Form 1877.*

(1) DA Form 1877 shall be prepared for each invitation for bids, request for proposals, or request for quotations issued in the United States, its possessions or Puerto Rico which may result in an award of contract over $50,000.

(2) DA Form 1877 shall be prepared when the requirements of a proposed procurement have been amended so as to increase the estimated amount over $50,000.

(3) DA Form 1877 shall not be prepared when the proposed procurement:

(i) Is to be given preferential treatment as

(*a*) A labor surplus area set-aside;

(*b*) A disaster area set-aside; or

(*c*) A small business set-aside (class, joint or unilateral);

(ii) Will be solicited by procuring activities outside the United States, its possessions and Puerto Rico;

(iii) Covers personal or professional services, including Architect-Engineer Services;

(iv) Covers electric power or energy, gas (natural or manufactured), water or other utility services;

(v) Covers perishable subsistence or "customer demand" items for resale;

(vi) Is to be placed as an order under an existing contract, under a Mandatory Federal Supply Schedule Contract, or under a contract of another military department or government agency which is designated as a mandatory source of supply (e.g., Purchase Notice Agreement, prison-made and blind-made supplies).

NOTE: A procuring activity shall prepare DA Form 1877 for proposed procurements of an estimated amount over $50,000 which will result in issuance of an Indefinite Delivery Type Contract (§ 3.409 of this title) notwithstanding that future orders placed against such contracts will not require DA Form 1877 as stated above.

(vii) Is for services from educational or nonprofit institutions;

(viii) Is a contract modification;

(ix) Is for Capehart housing construction per § 590.706–50(c); or

(x) Is for supplies developed and financed by Canadian sources under U.S./Canadian Development Sharing Program (§ 1.706–1(b) of this title).

(c) *Responsibility for preparation.* Contracting officers are responsible for preparation of DA Form 1877 and coordination of their decisions or recommendations with respect to a particular procurement with the Small Business and Labor Surplus Advisor at the purchasing office.

(d) *Review after preparation.* Surveillance and inspection of DA Form 1877 actions shall be conducted by representatives of the procurement office at a level higher than the contracting officer. Such inspections shall be conducted on a periodic basis to insure full compliance with the objectives of the Department of the Army Small Business and Labor Surplus Area Programs. DA Form 1877 shall be reviewed by an authority at a level higher than the contracting officer within the purchasing office when:

(1) The Small Business and Labor Surplus Advisor disagrees with the decision of the contracting officer and the disagreement cannot be resolved or;

(2) The contracting officer has a dual responsibility for performing the functions of a Small Business and Labor Surplus Advisor.

(e) *Distribution.* (1) DA Form 1877 shall be prepared in duplicate. The original, executed by the contracting officer and the Small Business and Labor Surplus Advisor (if such Advisor is assigned to the purchasing office), shall be placed in the contract file. If the procurement action results in more than one contract, cross references shall be included in appropriate contract files.

(2) The duplicate copy of DA Form 1877 shall be retained for a 90-day period by the Small Business and Labor Surplus Advisor at the purchasing office. Installations at which the Contracting Officer performs the duties of Small Business and Labor Surplus Advisor shall forward the duplicate copy to the Advisor at the office of the head of procuring activity.

(3) Procurement Districts of the U.S. Army Materiel Command shall be exempt from the preparation of this form in connection with formally advertised procurements. The name and address of any source which is not on the master bidders list of the initiating command and which is solicited under a formally advertised procurement shall be furnished by the Procurement District to the initiating command for inclusion on the master bidders list. For all negotiated procurements, except those of a follow-on nature with an existing contractor, Procurement Districts shall complete only items 15, 16, 24, and the purchase office numerical identification on DA Form 1877. On those procurements of a follow-on nature, no action is required by the Districts. Operating elements of the U.S. Army Materiel Command, other than the Procurement Districts, are not exempt under this subparagraph.

(4) The use of additional copies of DA Form 1877 may be utilized by a procuring activity as a management tool in analyzing procurement operations.

(f) *Explanation.* When entries on DA Form 1877 require further explanation, the contracting officer shall cite the circumstances on the reverse of the form or on an attachment. Each explanation shall begin with a reference to the Item No. being explained, i.e., "Item No. ------ * * *". Examples of entries which require explanation are:

(1) Elapse of an unusual period of time between the date of the procurement directive (purchase request, requisition, DA Form 14–115 (Purchase Request and Commitment) procurement order, etc.) and the date of the solicitation;

(2) A proposed procurement negotiated with a single source without competition for which the contracting officer's justification is required;

(3) When the time allowed for submitting offers is less than 30 days, except for purchases of standard commercial articles or services; or

(4) Any other factor involving the unsuitability of the award to Small Business.

(g) *Contracting officers performing the function of Small Business and Labor Surplus Advisors.* Contracting officers in this category shall accomplish DA Form 1877 in its entirety on all proposed procurements over $50,000 which are not exempt under provisions of paragraph (b)(3) of this section. Contracting officers shall sign items 23 and 25, respectively.

(h) *Detailed instructions for preparation.* Detailed instructions for preparation of DA Form 1877 are explained under the numbers below, which correspond to the numbers of the item headings on the face of the form.

(1) *Item 1: IFB or RFP number.* Enter the IFB or RFP number for the proposed procurement.

(2) *Item 2: Estimated dollar value of procurement.* Enter the estimated total dollar amount of the proposed procurement.

(3) *Item 3: Is procurement to be synopsized?* This block is applicable to synopsis of the proposed procurement in accordance with § 1.1003 of this title. Indicate by appropriate check whether or not the procurement is to be synopsized and, if not, indicate the appropriate exception for not synopsizing as set forth in § 1.1003–1 (a) through (i) of this title.

(4) *Item 4: Date procurement directive received.* Enter the date that the procurement directive (purchase request, requisition, DA Form 14–115 (Purchase Request and Commitment) or procurement order), applicable to the proposed procurement on which DA Form 1877 is being prepared, was received by the purchasing office. When more than 90 days has elapsed between the date the procurement directive was received and the date of the solicitation, an explanation of the reasons for the delay in procure-

ment will be stated on the reverse of the DA Form 1877 or attached thereto.

(5) *Item 5: Proposed date of issuance of IFB or RFP.* Enter the date that the IFB or RFP will be released.

(6) *Item 6: IFB opening date or RFP due date.* Enter the date on which bids submitted will be opened or on which proposals are due at the purchasing office. This date will be the effective date used for determining whether the Department of the Army policy of allowing concerns 30 days for preparation and submission of bids is being followed (paragraph (f)(3) of this section). Furnish an explanation only to the extent required by § 2.202 of this title.

(7) *Item 7: Description of item or service.* Enter a description of the commodity or service being procured. Also enter the type or model number, Federal stock or catalog number when such number has been assigned. Description should be in sufficient detail to adequately identify the item or service being procured. Components or spare parts should identify end item for which intended. (Example, "Compressor, Air, Rotary, Diesel Engine Driven, Trailer Mounted, 600 CFM, 100 PSI (FSN 4310–203–0569).")

(8) *Item 8: Proposed method of procurement.* Check the appropriate block to indicate whether the proposed procurement is to be advertised or negotiated. If the procurement is to be negotiated, enter the applicable exception under §§ 3.201 through 3.217 of this title.

(9) *Item 9: Contract modification.* Check the appropriate block to indicate whether or not the proposed procurement will result in the modification of a contract. A proposed contract modification which will not represent a change in the scope of the contract shall not be reported.

(10) *Item 10: Susceptibility of accomplishment by Small Business concerns.* Check the appropriate block to indicate whether or not the item or service was purchased at any time previously from a small business concern. If the block indicates that the item or service was purchased previously from a small business concern, enter in the space provided on the form the numerical identification of the last previous purchase action, if available, or the date of the DA Form 1877 covering the last previous purchase action.

(11) *Item 11: Are quantities appropriate for procurement from Small Business?* Check the appropriate block to indicate whether or not every practical consideration has been given to the combined capacity of qualified small business concerns capable of furnishing the item or service.

(12) *Item 12: Does IFB or RFP permit bidding on partial quantities?* Check the appropriate block to indicate whether or not the IFB or RFP permits bids or quotations on partial quantities.

(13) *Item 13: Preferential treatment.* Check the appropriate block to indicate whether preferential treatment is to be given the Labor Surplus, Disaster Area, or the Small Business Program.

(14) *Item 14: If Small Business set-aside is indicated in Item 13.* Check the appropriate block to indicate whether the small business set-aside is a total set-aside or a partial set-aside. If a partial small business set-aside is made, enter the percentage of partial set-aside. Unilateral set-asides shall not be reported as joint set-asides under any circumstances.

(15) *Item 15: Current number of concerns on bidders list for item or service.* Enter the total number of active bidders on the bidders list for the item or service being procured. Indicate in the appropriate blocks the number of large business concerns and small business concerns of the total number of active bidders shown.

(16) *Item 16: Number of concerns to be initially solicited on this procurement.* Enter the total number of concerns being solicited. Indicate in the appropriate blocks the number of large business concerns and small business concerns to be solicited. When the number of suppliers solicited indicates that solicitation has been limited to a single source, a copy of the contracting officer's justification for single source procurement (§ 3.210–3 of this title) shall be attached to the duplicate copy of the DA Form 1877 covering the proposed procurement.

(17) *Item 17: Check type specification used.* Check the appropriate block to indicate the type of specification used in the proposed procurement for which DA Form 1877 is being prepared. The reasons for repetitive use, in lieu of specifications, of a "purchase description" or a "brand named item or equal description" shall be explained on the reverse of the form.

(18) *Item 18: Are drawings to be furnished with IFB or RFP?* Check the appropriate block to indicate whether all drawings applicable to the proposed procurement are to be furnished with the IFB or RFP. If the answer is "No," explain the reason why the drawings are not to be furnished.

(19) *Item 19: If answer to Item 18 is "No," are prospective contractors to be advised as to where drawings can be inspected?* Check the appropriate block.

(20) *Item 20: Does proposed IFB or RFP contain the clause "Utilization of Small Business Firms in Subcontracting"?* This block shall be executed on proposed procurements which may result in an award of a fixed-price supply contract in an amount of $5,000 or more. If the answer to block 20 is "Yes," check the appropriate block to indicate whether or not the contract clause required by § 7.104–14 of this title is to be used in the proposed procurement.

(21) *Item 21: Does proposed procurement lend itself to subcontracting opportunities?* Check the appropriate block to indicate whether or not, in the opinion of the contracting officer, the proposed procurement lends itself to small business subcontracting opportunities. Indicate whether or not the Small Business Subcontracting Program clause (§ 1.707–3(b) of this title) is to be included in proposed contract.

(22) *Item 22: Does proposed IFB or RFP provide for progress payments?* Check the appropriate block to indicate whether or not provisions are being made for progress payments in the proposed procurement.

NOTE. Before items 23, 24 and 25 are executed by the contracting officer or the small business specialist, the small business specialist shall confer with the contracting officer regarding any points in question or any recommendations he would like to make regarding the proposed procurement.

(23) *Item 23: Authentication of contracting officer or authorized representative.* The signature of the contracting officer (or his authorized representative) shall be affixed in this block, except that whenever entries in blocks 1 through 22, inclusive, require explanation, block 23 shall be signed only by the contracting officer.

(24) *Item 24: Statement of Small Business Specialist or Small Business Advisor after reviewing the proposed procurement.* Check the appropriate block to indicate whether or not in your opinion small business concerns have been given an equitable opportunity to compete for the proposed procurement. This review is to be made not less than 48 hours prior to the finalization and solicitation for mailing. Consideration shall be given to all of the essential elements constituting "an equitable opportunity to compete" as set forth in § 590.701–51. If the small business specialist or the small business advisor indicates that in his opinion an equitable opportunity to compete for the procurement has not been afforded small business concerns, an explanation as to whether or not justifiable reasons exist shall be added on the reverse of the form or attached thereto. These reasons may supplement or support the statement entered by the contracting officer. Such incidents shall be brought to the attention of the commanding officer.

(25) *Item 25: Date and signature line for use of Small Business Specialist.* The signature of the purchasing office's small business specialist shall be affixed in this block.

## Subpart H—Labor Surplus Area Concerns

### § 590.801–50 Economic Utilization Program.

This is a program designed to accomplish the objectives of the Labor Surplus Area Program giving full consideration to the activation and development of under-utilized economic resources of the nation in support of defense procurement and logistics programs.

### § 590.802–50 General policy.

Successful execution of the objectives of the Labor Surplus Area Program is specifically the responsibility of the individuals designated as Small Business and Labor Surplus Advisors within the Department of the Army, as set forth in § 590.704–50. However, all Army personnel engaged in procurement and related activities share in the responsibility for conscientiously and effectively carrying out the policies, procedures, and aims of the Program.

**§ 590.803–50 Identification of Labor Surplus Area Concerns.**

(a) For the purpose of identifying and giving appropriate consideration to labor surplus area concerns, contracting officers will require each prospective contractor to make a written representation in his bid, proposal, or quotation indicating whether he proposes to perform as a labor surplus area concern. This will be accomplished by including substantially the following statement in the schedule accompanying each solicitation issued by Department of the Army purchasing activities in the United States, its possessions and Puerto Rico, except (1) when a set-aside for Labor Surplus Area Concerns is made pursuant to § 1.804 of this title, and (2) construction contracts:

(1) Preference in contract award is given to labor surplus area concerns in the case of labor surplus area set-asides, equal low bids, and the evaluation of bids and proposals in accordance with the Buy American Act:

(2) Bidder, offeror or quoter represents that he ☐ is, ☐ is not a ☐ persistent, ☐ substantial Labor Surplus Area Concern;

(3) Failure to make an affirmative representation and to submit the additional information concerning areas of performance called for elsewhere in your bid, proposal, or quotation will preclude consideration of your company as a labor surplus area concern. In making such representation, bidders, offerors, or quoters will be guided by the following definition:

(*a*) The term "labor surplus area" means a geographical area which is a persistent labor surplus area or a substantial labor surplus area, or both, as defined below:

(i) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Labor Market Trends," or (B) is certified as an area of substantial and persistent Labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(ii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Labor Market Trends," or (B) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(*b*) The term "labor surplus area concern" includes persistent labor surplus area concerns and substantial labor surplus area concerns as defined below:

(i) "Persistent labor surplus area concern" means a concern that agrees to perform, or to cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(ii) "Substantial labor surplus area concern" means a concern that agrees to perform, or cause to be performed, as a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in substantial labor surplus areas or in substantial and persistent labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(b) The following provision shall be included in all invitations for bids initiated by purchasing activities in the United States, its possessions and Puerto Rico, except for construction contracts. It shall be appropriately modified for similar mandatory use by such activities in solicitations which will result in negotiated fixed price contracts:

AGREEMENT TO PERFORM AS A LABOR AREA SURPLUS CONCERN (JULY 1962)

A bidder desiring to be considered for award as a labor surplus area concern must (*a*) make an affirmative representation that he is a labor surplus area concern (as defined in and provided for elsewhere in the schedule) and (*b*) identify in his bid, prior to the time of opening, the geographical areas in which he proposes to perform or cause to be performed a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposed to perform, provided that he so notifies the contracting officer before contract award. Any preference for award will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

The bidder agrees that if awarded a contract for which he would not have qualified had he not been a persistent labor surplus area concern, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award or at the time of performance of the contract, as persistent labor surplus areas; further, that if awarded a contract as a substantial labor surplus area concern, he will perform or cause to be performed a substantial proportion of the production in areas classified at the time of award or at the time of performance of the contract as substantial or persistent labor surplus areas.

**§ 590.803–51 Techniques of operation.**

The philosophy and policy objectives of the Economic Utilization Program require that individuals assigned program responsibility shall promote the policy objectives set forth in § 1.802 of this title and with vigor and imagination search out, test and promote Army-wide application of those practices which will assure placing contracts with labor surplus area concerns to the maximum extent feasible. To this end Small Business and Labor Surplus Advisors normally shall:

(a) Maintain and disseminate current information on areas, industries and specific facilities which are or may become economically distressed, and which have a significant potential to participate in Defense procurement and logistics programs;

(b) In connection with specific major procurements or other logistics actions, serve as advisor and consultant to those responsible for final decisions in order to assure that a full awareness of underutilized economic resources is known and taken into consideration in making such decisions;

(c) Cooperate with state, regional, local and industry leaders upon request by advising them on how to prepare and make known to appropriate Defense officials information regarding underutilized plants and other resources which can be employed in support of defense procurement;

(d) Study procurement policies and practices in order to recommend revisions in policies and to identify opportunities for more effective implementation of Subpart H, Part 1 of this title; and

(e) Assist contracting officers in assuring full application of the distressed labor area policy by prime contractors and major subcontractors.

5. Section 590.1005–5 is revised to read as follows:

**§ 590.1005–5 Authority and delegation (under 44 U.S.C. 324).**

(a) Authority to approve the publication of paid advertisements in newspapers, magazines, and other periodicals in connection with the dissemination of procurement information (invitations for bids and proposed purchases), recruitment of both military and civilian personnel, and other forms of advertising authorized by law has been delegated by the Assistant Secretary of the Army (Installations and Logistics) to:

(1) Commanding generals and their deputies, ZI armies, for recruiting purposes.

(2) Commanding General, U.S. Army, Alaska, for recruiting purposes.

(3) Commanding General, U.S. Army Communications Zone, Europe, for the recruitment of indigenous labor at local wage rates.

(4) Commanding General, U.S. Army Materiel Command, for advertising Army-owned interchange freight and passenger car equipment in official train equipment registers and for recruitment of civilian personnel.

(5) Director of Personnel and Training, U.S. Army Materiel Command, for recruitment of civilian personnel.

(6) Director of Materiel Readiness, U.S. Army Materiel Command, for advertising Army-owned interchange freight and passenger car equipment in official train equipment registers.

(7) Commanders of the following commands, for recruitment of civilian personnel:

(i) U.S. Army Mobility Command.

(ii) U.S. Army Munitions Command.

(iii) U.S. Army Missile Command.

(iv) U.S. Army Weapons Command.

(v) U.S. Army Electronic Command.

(vi) U.S. Army Supply & Maintenance Command.

(vii) U.S. Army Test & Evaluation Command.

(8) Chief, Office of Personnel Operations, for recruiting purposes.

(9) The Adjutant General, Department of the Army, for recruiting purposes only.

(10) Chief of Engineers, for real estate and civil and military construction matters in CONUS and overseas and for recruitment of civilian personnel.

(11) Division Engineers, Corps of Engineers, for real estate, civil and military construction matters.

(12) The Surgeon General, for recruitment of civilian personnel.

(13) Chief, U.S. Army Audit Agency, for recruitment of civilian personnel.

Such delegated authority shall not be redelegated.

(b) No advertisement, notice, or proposal shall be published in any newspaper except in pursuance of written authority for such publication from the Secretary or the appropriate official named above.

6. New Subparts O and P are added as follows:

Subpart O—Options

Sec.
590.1506–50 Option to renew.

Subpart P—Novation Agreements

590.1604 Novation agreements affecting more than one department.
590.1650 Novation agreements affecting only Army contracts.

AUTHORITY: §§ 590.1506–50 to 590.1650 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

## Subpart O—Options

### § 590.1506–50 Option to renew.

(a) *Conditions for use.* The clause set forth in paragraph (b) of this section is authorized for use in negotiated contracts for services for which all of the following conditions hold:

(1) The initial contract period ends at the end of the fiscal year;

(2) Any renewal will likewise be for a period ending at the end of the fiscal year then current;

(3) There is a continuing need to meet the operational requirements of the installation or activity;

(4) Annual funds are consistently appropriated; and

(5) It will be necessary to initiate negotiations for any extension or renewal of the original contract prior to the availability of funds therefor.

If the original contract is negotiated and signed prior to availability of funds, the provisions of § 1.318 of this title will be followed.

(b) *Clause.*

OPTION TO RENEW CONTRACT FOR ADDITIONAL PERIOD

(a) At the option of the Government, the contractor agrees to negotiate for the continuance of services of the general type hereunder: *Provided that,* The Government notifies the contractor in writing of the intention to negotiate for such continuation at least sixty (60) days prior to the 30th day of June each year, except that in no event will services be continued beyond 30 June 19__. In the event that performance of services is to be continued through the exercise of this option, the Government agrees to notify the contractor of the date on which such performance will begin.

(b) The contractor may refuse annual continuance of the services of the general type hereunder at the end of any fiscal year (30 June) by giving the contracting officer a written notice to the effect that such continuance will not be accepted, and the contractor agrees to give such notice at least one hundred and twenty (120) days prior to the end of the current contract period.

(c) The contractor further agrees to give the Government an option to extend this contract under the terms thereof for one month for final contract administration and simultaneous cooperation with any contractor who may be awarded a contract for any subsequent period.

(c) *Instructions.* (1) Before exercising the right of the Government to call for negotiation of a renewal or extension of the contract pursuant to the clause in paragraph (b) of this section, the contracting officer shall:

(i) Assure himself that funds may reasonably be expected to be available to continue the work for the new period;

(ii) Determine that authority to negotiate the renewal or extension exists; and

(iii) Determine that, price and other factors considered, no useful purpose would be served by competitive negotiation.

(2) Before the negotiated supplemental agreement evidencing renewal or extension of the contract is executed, the contracting officer shall:

(i) Make certain that the contractor understands that any work performed prior to receiving notice of availability of funds is at the contractor's risk; and

(ii) Insure that the supplemental agreement contains language to the following effect:

Funds are not presently available for the procurement represented by this Modification No. _____ to Contract _____. The Government's obligation under this Modification No. _____ is contingent upon the availability of appropriated funds from which payment can be made. No legal liability on the part of the Government for payment of any monies shall arise unless and until funds are made available to the contracting officer for this Modification No. _____ and notice of such availability, to be confirmed in writing by the Contracting Officer, is given to the contractor.

(3) Paragraph (c) of the clause in paragraph (b) of this section may be omitted when the contracting officer considers that its use would be inappropriate.

## Subpart P—Novation Agreements

### § 590.1604 Novation agreements affecting more than one department.

If authorized by the Director of Procurement, OASA (I&L) upon his referral of a novation agreement matter affecting more than one department to a head of procuring activity, such head of procuring activity may coordinate directly with the other departments concerned and act for the Department of the Army in consummating any such agreement. When a disagreement cannot be resolved, the matter shall be forwarded promptly to the addressee listed in § 590.150(b)(6) together with the pertinent files and a recommended solution. If the head of procuring activity concerned is not authorized to coordinate directly with other departments and to act for the Department of the Army in consummating the novation agreement, the procuring activity to which the matter is referred shall furnish an analysis of required actions and a recommended novation agreement to the addressee listed in § 590.150(b)(6).

### § 590.1650 Novation agreements affecting only Army contracts.

(a) When, pursuant to § 1.1602 or § 1.1603 of this title, it becomes necessary to execute a novation agreement affecting only Army contracts, each contractor concerned shall be advised that three copies of the novation agreement and one copy of each of the documents required by § 1.1602 or § 1.1603 of this title are required to be submitted to the Army procuring activity having the largest unsettled (unbilled plus billed but unpaid) dollar balance with the contractor. The head of procuring activity, or his designee as otherwise provided for in this section, is authorized to execute the agreement on behalf of the Department of the Army.

(b) A head of procuring activity may delegate the authority to execute novation agreements referred to in paragraph (a) of this section:

(1) To a duly authorized representative who is a member of his headquarters staff; or

(2) To a contracting officer, provided such contracting officer has a legal advisor available and is administering all of the contracts which will be affected by the proposed novation agreement.

(c) A contracting officer learning of a proposed change of name, merger, incorporation of a hitherto noncorporate contractor, or any other situation calling for execution of a novation agreement shall:

(1) Refer the contractor to the provisions of Subpart P, Part 1 of this title;

(2) Advise the contractor to notify all Army contracting officers concerned of the proposed change at least 30 days before completion of actions which will accomplish the change; and

(3) Encourage the contractor to confer with the appropriate legal office with respect to questions concerning required documentation and terms and conditions of the novation agreement.

(d) Any necessary coordination shall be effected directly between procuring activities concerned and shall normally be initiated by the procuring activity which has responsibility for executing the novation agreement. If the head of procuring activity responsible for effecting a novation agreement and the contractor concerned cannot resolve their differences with respect to a novation agreement, including the sufficiency of the evidence submitted in support thereof, the file together with a recommendation for disposition shall be submitted promptly to the addressee listed in § 590.150(b)(6).

(e) The following distribution of novation agreements shall be made by the official executing the agreement:

(1) The original signed number shall be sent to the addressee listed in § 590.150(b)(12) for the General Accounting Office.

(2) The duplicate signed number shall be furnished to the contractor.

(3) The triplicate signed number shall be retained by the procuring activity which executes the agreement.

(4) An authenticated copy shall be furnished to each contracting officer who is administering a contract affected by the agreement (through the appropriate head of procuring activity) and to the U.S. Army Audit Agency.

(f) Maximum use shall be made of an administrative notice in lieu of a copy of the agreement to inform those activities which must have knowledge of such an agreement but have no requirement for the full agreement (e.g., cognizant disbursing offices). Such notice shall reflect the effective date of the agreement; a brief statement of the change effected; the name, title, and office of the individual executing the agreement; and the designation of each guarantor of performance under the agreement.

## PART 591—PROCUREMENT BY FORMAL ADVERTISING

7. Section 591.451 is revised to read as follows:

**§ 591.451 Requests for decision by the Comptroller General.**

(a) *Administrative Report (exempt report, par. 39t, AR 335–15).* Each case submitted for a decision by the Comptroller General shall be accompanied by an administrative report signed by the contracting officer. This report shall (1) summarize the matter at issue, (2) state the findings and recommendation of the contracting officer, (3) indicate the actions taken, and (4) provide any additional information or evidence deemed necessary, including any documentation specifically requested by the Comptroller General or required by Subchapter A. After review of the report by the head of procuring activity concerned, his deputy, or principal assistant responsible for procurement, it shall be forwarded as prescribed in paragraph (b) of this section, together with any additional appropriate information and with a statement of the position and recommendation of the reviewer.

(b) *Submission of requests.* Procurement matters shall be submitted to the Comptroller General for decision as follows:

(1) Procuring activities subordinate to Headquarters, U.S. Army Materiel Command, shall forward matters to that Headquarters.

(2) Headquarters, U.S. Army Materiel Command and the Chief of Engineers shall forward cases other than those involving requests for remission of liquidated damages direct to the Comptroller General in accordance with special procedures which have been prescribed. Cases pertaining to remission of liquidated damages (§ 590.310 of this chapter) shall be forwarded to the addressee in § 590.150(b)(1) of this chapter for processing to the Comptroller General.

(3) Procuring activities other than in subparagraphs (1) and (2) of this paragraph shall forward matters by a covering letter inclosing the administrative report to the addressee in § 590.150(b)(6) of this chapter.

## PART 592—PROCUREMENT BY NEGOTIATION

8. Subpart A is revised to read as follows:

### Subpart A—Use of Negotiation

Sec.
592.101 Negotiation as distinguished from formal advertising.
592.102 General requirements for negotiation.
592.111 Protests against award.
592.112 Disclosure of mistakes after award.

AUTHORITY: §§ 592.101 to 592.112 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

**§ 592.101 Negotiation as distinguished from formal advertising.**

Unless negotiation is mandatory (e.g., § 3.206 of this title), before resorting to negotiation, as distinguished from formal advertising, careful consideration shall be given not only to the feasibility and practicability of the traditional formal advertising procedures, but also to the two-step formal advertising procedures as set forth in Subpart E, Part 2 of this title. Where it is feasible to enter into a contract on a fixed-price basis after competition, only the most cogent reasons are sufficient to justify the impracticability of formal advertising. The fact that a proposed procurement may fall within one of the negotiating exceptions under 10 U.S.C. 2304 (a) (1) through (17) §§ 3.201 through 3.217 of this title) does not within itself justify negotiating such procurement unless a proper determination is also made that it is infeasible and impracticable to accomplish it by formal advertising.

**§ 592.102 General requirements for negotiation.**

(a) It is normally not consistent with the nature and requirements of a contract for personal services or for certain types of professional services to secure competition. See, for example, § 606.204–4 of this chapter relating to selection of architect-engineers.

(b) When Standard Form 18 (Request for Quotations) is used to solicit responses from prospective contractors, the responses thereto are not offers; they cannot be "accepted" to form a contract. Accordingly, the terms "bid," "bidder," "offer," "offeror," "proposal," and "proposer" are not appropriate to describe the relationship created by a Request for Quotations and a response thereto. DD Form 746 (Request for Proposals and Proposal), with related forms as set forth in § 16.203 of this title, is also used in negotiated procurement to solicit responses from prospective contractors. DD Form 746 seeks responses which are offers, subject to acceptance, to form the intended contract. Accordingly, a solicitation on DD Form 746 should contain (by reference or otherwise) all of the definitive terms and conditions anticipated to be contained in the resulting contract, including all required clauses. Whether a solicitation is made on Standard Form 18 or DD Form 746, the "Instructions to and Information for Prospective Contractors" (however captioned) should be kept to a separate portion of the solicitation package; its terminology should be consistent with the form of solicitation; it should contain nothing inconsistent with the substantive provisions of the intended contract, and accordingly should not restate in different words provisions of the intended contract which are also a part of the solicitation package; and finally, it should be logically organized with divisions and subdivisions appropriately marked with numbers or letters for identification and cross-reference purposes.

**§ 592.111 Protests against award.**

The procedure set forth in § 2.407–9 of this title and § 591.407–9 of this chapter, substituting the documents appropriate to negotiation for those of formal advertising, shall be used.

**§ 592.112 Disclosure of mistakes after award.**

The procedure set forth in § 2.406–4 of this title and § 591.406–4 of this chapter, substituting the documents appropriate to negotiation for those of formal advertising, shall be used.

## PART 593—SPECIAL TYPES AND METHODS OF PROCUREMENT

9. Section 593.102 is revoked, and new Subparts B and J are added, as follows:

**§ 593.102 Formal advertising. [Revoked]**

### Subpart B—Procurement of Research and Development

**§ 593.205–1 Selection of sources.**

(a) *Unsolicited proposals.*

(1) An unsolicited proposal is one submitted without formal or informal request or solicitation from any representative of the Government, and may result from participation in the Department of the Army research and development unfunded study program or from the issuance of "Problem Guides" or similar publications intended to encourage private invention and innovation. The public interest requires a thorough consideration of all possible sources for research and development of improved military materiel and related processes, including unsolicited proposals. Accordingly, reasonable precautions shall be taken to safeguard the ideas and privileged technical information furnished in any proposal from untimely disclosure and unauthorized use. It is the responsibility of the proposer to protect his interest under the patent and copyright laws by a restrictive marking similar to the legend in § 3.109 of this title.

(2) A prospective contractor who submits an unsolicited proposal is not entitled to preferential treatment in the award of any contract. If he has any advantages they come from his knowledge of the inventive proposal, design characteristics, fabrication techniques, and product performance which might make him the most qualified source for further development and refinement of the product, for production engineering services, and for initial production quantities where reduction of lead time is a factor.

(3) Where unsolicited proposals are not related to a project for which proposals have been requested from other sources, the provisions of AR 825–20, which prescribe administrative handling and technical evaluation, will be carefully followed to encourage prospective contractors to disclose ideas having possible military value which they have originated, advanced, or developed. After a proposal has been found to be technically feasible and a military requirement has been established, the proposer's capabilities will be appraised. For research or development work to be obtained from him, the proposer will be notified as to: (i) the purpose of the appraisal; (ii) the Government's policies regarding competition in procurement; and (iii) the authorized and required contract provisions relating to patents, licenses, and data.

(4) When an unsolicited proposal is received relative to a project for which proposals have been requested from other sources known to be qualified, the unsolicited proposal shall be evaluated within the guidelines of the desired work. If the evaluation is favorable, the proposer will be provided with any detailed information furnished to the other sources, and will be given an opportunity to make any changes necessary so that his proposal may conform to the Government's requirements. The selection of the successful offeror will be made in accordance with Subpart B, Part 4 of this title.

(Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

## Subpart J—Procurement of Expert, Consultant, and Stenographic Reporting Services

Sec.


593.1001 Experts, consultants, and stenographic reporters.
593.1002 Employment by appointment.
593.1003 Employment by contract.
593.1003–1 General.
593.1003–2 Applicability of procedure.
593.1003–3 Award approval requirements.
593.1003–4 Incidents of temporary or intermittent employment by contract.
593.1003–5 Limitations.
593.1004 Contracts with organizations for expert or consultant services.
593.1005 Criteria for submission for secretarial consideration of proposed contracts for nonpersonal expert or consultant services.
593.1006 Contracts for stenographic reporting services.


AUTHORITY: §§ 593.1001 to 593.1006 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

### § 593.1001 Experts, consultants, and stenographic reporters.

(a) Generally, the temporary or intermittent employment by contract (as distinguished from appointment) of experts, consultants or stenographic reporters is authorized by statutory authority contained in two enactments.

(1) One such authority is permanent legislation. Section 15 of the Act of August 2, 1946 (Pub. Law 600, 79th Cong; 60 Stat. 810; 5 U.S.C. 55a) provides:

> The head of any department, when authorized in an appropriation or other Act, may procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract, and in such cases such service shall be without regard to the civil-service and classification laws (but as to agencies subject to the Classification Act [see 5 U.S.C. 661–663, 664–669, 670–672, 673, and 674] at rates not in excess of the per diem equivalent of the highest rate payable under said sections, unless other rates are specifically provided in the appropriation or other law) and, except in the case of stenographic reporting services by organizations, without regard to section 3709, Revised Statutes, as amended by this Act [see 41 U.S.C. 5].

(2) The other authority is annual legislation found as a recurring provision in the Department of Defense Appropriation Act. Supplementary authority may also be found in other appropriation acts, such as that for the Civil Functions of the Department of the Army. The annual Department of Defense Appropriation Act language is essentially the same as section 501 of Public Law 87–577 (76 Stat. 318, 327), which provides:

> During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty station and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

(b) As used in this subpart, a contract for personal services is one under which the relationship of employer-employee is created between the parties. Ordinarily this relationship exists when the Government has the right, whether or not such right is exercised, to control and direct the individual, not only as to the results to be accomplished by the work, but also as to the details and means by which the results are to be accomplished. If the contractor is subject to the control or direction of the Government only as to the result to be accomplished but not as to the means and methods for accomplishing such result, he is normally an independent contractor and not an employee. When the contract calls for the delivery by the contractor of an end product or end result which is described in the contract in reasonably specific terms, without providing for Government supervision of the methods or means by which such end product is to be produced or end result is to be achieved, the relationship of employer-employee is normally not created by the contract. Notwithstanding the foregoing general criteria, the Comptroller General of the United States has held in effect that when the services to be performed, by their nature, represent the discharge of a governmental function (e.g., performance of services which are regularly performed by Government employees, such as inspection services and functions which call for exercise of personal judgment and discretion on behalf of the Government) such services are personal in character. For procurement purposes, the significance of a thorough understanding of the criteria which distinguish personal services from nonpersonal services lies in the fact that the Comptroller General has held in numerous instances that, as a general rule, purely personal services to be rendered to the Government may not be obtained on a contractual basis, but are required to be performed by regular employees. Exceptions to this general rule are found in a few statutes, such as those cited in paragraph (a) of this section; the Comptroller General has also recognized certain unusual circumstances (see § 593.1005) as justifying an exception. It is not always easy to determine whether a contract is one for personal services, but when the Government is to furnish all of the necessary equipment, supplies, and working space and the services are of a continuing rather than temporary nature, to be paid for on the basis of time worked by the contractor, the contract would, in the absence of unusual circumstances, be considered as one for personal services.

### § 593.1002 Employment by appointment.

The authorities set forth in § 593.1001 (a) permit the temporary or intermittent employment by appointment of individuals as experts and consultants. Such appointments are processed by the Civilian Personnel Office in accordance with the instructions set forth in Civilian Personnel Regulations (CPR) A–9. The temporary or intermittent personal services of an expert or consultant shall be obtained by the appointment method, rather than by contract, except as follows:

(a) Where the services are included in the categories set forth in § 606.204–2(b) (1), (2), (4) and (5) of this chapter;

(b) Where the services will be performed by foreign nationals;

(c) Where the services will be performed outside the United States in fields other than those covered by § 606.204–2(b) (2) and (5) of this chapter;

(d) Where architect-engineer services of a personal services nature will be performed (§ 606.204–4 of this chapter); or

(e) Where special circumstances preclude use of the appointment method, as where services of a particular expert or consultant are necessary and the individual is willing to serve only under a contract.

### § 593.1003 Employment by contract.

### § 593.1003–1 General.

(a) If the funds for a contract of the type described in 5 U.S.C. 55a are not contained in the annual DOD Appropriation Act, a submission for Secretarial action shall identify the appropriation act involved; shall to the extent practicable follow the procedures set forth in this subpart and shall contain informa-

tion necessary to demonstrate compliance with the particular appropriation act provision relied upon as being complementary to 5 U.S.C. 55a.

(b) Before a contract to which the statutory provision contained in the annual DOD Appropriation Act (see § 593.1001(a)(2)) is applicable may be entered into, the Assistant Secretary of the Army (Installations and Logistics) or the Assistant Secretary of the Army (Research and Development), as the case may be, is required personally to determine (1) that to do so is advantageous to the national defense and (2) that the existing facilities of the Department of the Army are inadequate. Except as provided in § 606.204–2(b) of this chapter such determinations are made on a case-by-case basis, after submission of the information called for in § 593.1003–3 to the appropriate Assistant Secretary.

**§ 593.1003–2 Applicability of procedure.**

The procedures set forth in §§ 593.1003—593.1003–5 apply to any contract for temporary or intermittent personal services if the contract is for (a) stenographic reporting services or (b) services of an expert or consultant. (See § 606.204–4 of this chapter concerning architect-engineer contracts for personal services.) The procedures set forth in §§ 593.1003—593.1003–5 do not apply to contracts for the services of teachers in schools for military dependents (see AR 350–295), the services of contract surgeons (see AR 40–1), the services of technical representatives or for management engineering services where there is no direct Government supervision or control over contractor personnel and such services are obtained on an end product basis (see AR 750–22 and AR 1–110 respectively), or the employment of counsel for Army personnel tried before a foreign tribunal (see AR 633–55).

**§ 593.1003–3 Award approval requirements.**

(a) Any proposed award as to which the head of procuring activity concerned has not been delegated award approval authority (§ 606.204–2(b) of this chapter) shall be submitted to the Assistant Secretary of the Army (Installations and Logistics) or (Research and Development) as appropriate. The file submitted shall include the following:

(1) A narrative request that the Assistant Secretary make the required determinations and approve the proposed award, explaining in separate paragraphs:

(i) Why the services are needed and for what period.

(ii) The reasons the proposed contract would be advantageous to the national defense,

(iii) An analysis of the proposed compensation in relation to the work to be performed and the Classification Act rate of pay for a regular employee performing similar or comparable services, and

(iv) The basis for certifying that the existing facilities of the Department of the Army are inadequate, to include an explanation of why such services cannot be performed by regular Department of the Army personnel;

(2) Applicable information called for by § 606.203(b) of this chapter to the extent not duplicated by the information called for under subparagraph (1) of this paragraph; and

(3) A certificate, signed by the head of the procuring activity concerned, as follows:

The employment of ---------- will not be in excess of the civilian personnel authorization established by the Department of the Army for the (Army agency in which the individual is to work); the proposed contract is advantageous to and necessary for the national defense; existing facilities of the Department of the Army are inadequate; and the proposed compensation is considered reasonable.

(b) If a proposed contract is in one of the categories described in § 606.204–2(b) of this chapter and the head of the procuring activity concerned has been delegated award approval authority, it shall be submitted to the head of the procuring activity for such award approval. Accompanying the request for award approval, and notwithstanding the annual Secretarial determinations described in § 606.204–2(b) of this chapter, the request for award approval shall be accompanied by (1) an explanation of why the services are needed and for what period, (2) a statement of the reasons the proposed contract would be advantageous to the national defense, (3) a justification of the proposed compensation, and (4) except for "DEFSIP–B" personnel, a statement of the basis for certifying that the facilities of the Department of the Army are inadequate. Additionally, except for contracts covering DEFSIP–B personnel, the certificate set forth in paragraph (a)(3) of this section shall accompany the file and be executed by the head of the requesting procurement office.

(c) Unless the criteria in § 593.1005 apply, Secretarial determinations as required by the statutes described in § 593.1001(a) are not required for nonpersonal service contracts with an individual, except such a contract for stenographic reporting services.

**§ 593.1003–4 Incidents of temporary or intermittent employment by contract.**

(a) *Federal Social Security taxes.* Individuals (other than aliens performing services outside the United States, the Virgin Islands, and Puerto Rico, and alien specialists retained to meet the requirements of "DEFSIP–B") who perform personal services on a temporary or intermittent basis under contracts are generally eligible for old age and survivors insurance coverage under Social Security statutes. A contracting officer administering a personal services contract under which the individual is eligible for such coverage shall, before performance begins under such contract, takes steps necessary to cause the appropriate Finance and Accounting Office to make deductions as required (see AR 37–105).

(b) *Income tax withholding.* Individuals employed under personal services contracts are generally subject to withholding of Federal Income Tax. It may also be necessary to report or withhold the contractor's income for State income tax purposes (see 5 U.S.C. 84b). Accordingly, the contracting officer administering a contract under which payments to the contractor are subject to income tax withholding shall, before performance begins under such contract, take steps necessary to cause the appropriate Finance and Accounting Office to make the necessary deductions and reports (see AR 37–105).

(c) *Annual and sick leave.* (1) An individual employed under a contract to render personal services, which because of their nature preclude specifying in the contract the hours and days of a week during which the individual will regularly perform services on a repetitive basis, is not entitled to annual or sick leave.

(2) An individual employed under a personal services contract (including any extension thereof) in which there has been established a regular weekly tour of duty is entitled to accrue and use sick leave, and, where the contract (or any extension thereof) also provides for a performance period in excess of 90 days, is also entitled to accrue and use annual leave pursuant to the Annual and Sick Leave Act of 1951, as amended. Administration of leave benefits shall be in accordance with the CPR L1.

(i) In preparing the schedule of the contract it is essential that the contracting officer, in coordination with the civilian personnel officer, determine the amount of sick and annual leave, if any, which a particular contractor may have to his credit and to specify in the contract a correct statement of the contractor's sick and annual leave entitlements. Prior Government service may affect a contractor's sick and annual leave credits as well as the rate at which he will accrue annual leave. Thus, while the contract with any individual who is entitled to accrue and use annual and sick leave will provide that leave entitlements and benefits will be administered pursuant to the pertinent provisions of CPR L1, which will be incorporated into the contract by reference, it should also contain a statement concerning the contractor's leave entitlements (credits as well as rates of accrual) in sufficient detail to permit an audit of the contract by reference only to the contract terms and CPR L1, without necessity of referring to the contractor's personnel folder (see paragraph (d) of this section).

(ii) A contractor who is entitled to leave benefits may not take leave after the end of the contract performance period. While leave credits may be carried over in certain instances as specified in CPR L1, if the contractor has not become entitled to use all or any part of his sick leave at the end of the contract period, he is not entitled to payment therefor. A contractor may be paid under the contract in a lump sum for his unused annual leave at the end of the contract period, provided he is not re-employed in an annual leave earning status within a period equal to that of his unused annual leave. If he is re-employed, after the end of the contract period, in a status

under which he is entitled to accrue annual leave, his unused annual leave is carried forward to the new contract (or appointment). These illustrative situations suggest the difficulties which may be encountered in obligating funds to cover performance under a personal services contract wherein the contractor is entitled to leave, as well as possible difficulties which may be encountered whether or not the contract or employment is continued without a break in service. Since a contractor may be required to take annual leave, it is Army policy to recite this fact in the contract and to so administer performance and leave benefits that, at the end of the contract period, the contractor will have used his accrued annual leave. When, for compelling reasons, it is not possible for the contractor to use his annual leave during the period of performance, and he becomes otherwise entitled to a lump sum payment for unused leave, action must be taken a sufficient period before the end of the contract period to obligate funds necessary to liquidate the lump sum annual leave payment (see AR 37–20). Also, when a lump sum annual leave payment is made, follow up action is required to insure that, if by virtue of unanticipated re-employment the contractor becomes obligated to refund the lump sum payment, prompt collection action is taken and leave credit is carried forward.

(iii) Holidays and nonwork days: (*a*) As a matter of policy, a contractor employed under a personal services contract will not be paid for holidays on which he does not work or for other nonwork days. This policy must be reflected in the contract terms and shall be taken into account in establishing the contract price as well as the payments made thereunder.

(*b*) The fact that a contractor otherwise entitled to leave does not render services during his regularly scheduled work week solely due to holidays or nonwork days established by Federal statute or Executive or administrative orders does not deprive him of leave entitlements as set forth above.

(*c*) An individual employed on a part-time basis under a personal services contract, in which there has been established a regular tour of duty and wherein a performance period in excess of 90 days has been established, shall be entitled to accrue and use annual and sick leave. The amount of such leave shall be on a pro rata basis as provided in CPR L1.

(d) *Coordination with Civilian Personnel Office.* It is necessary that authorized manpower ceilings not be exceeded (except that such ceilings are not applicable to individuals obtained to meet the requirements of the DEFSIP–B program) and that the cognizant Civilian Personnel Office establish certain records and files on individuals employed to render personal services under contracts (see CPR A9.3–5). Accordingly, the contracting officer administering such contract shall effect necessary coordination with the Civilian Personnel Office before award of the contract. The contracting officer may also designate the appropriate Civilian Personnel Officer as his representative for the purpose of administering provisions relating to annual and sick leave, obtaining from the contractor necessary data for FICA and income tax withholdings, administering conflict of interest provisions applicable to the contractor, and within-grade increases in connection with DEFSIP–A contractors (see CPR P8.2).

**§ 593.1003–5 Limitations.**

(a) The following limitations set forth in paragraphs (b) through (e) of this section are applicable to any contract within the coverage of § 593.1003–2.

(b) Prior to award of a contract for services under the DEFSIP program, appropriate security clearance shall be obtained from the Assistant Chief of Staff for Intelligence except in cases where the individual concerned is brought to the United States under waiver of documentation procedures.

(c) No contract shall provide for the performance of services beyond the close of the fiscal year during which it is executed. However, a contract may provide for renewal at the beginning of the succeeding fiscal year upon written notification to the contractor by the contracting officer. Such notification shall be given only after the required determinations (§ 593.1003–1(b)) have been made by the Secretary and funds have been made available to the contracting officer for continuation of the contract. If the funds used are NO YEAR funds and are available, the renewal may be made contingent only upon the making of the required determinations by the Secretary.

(d) Compensation of the individual shall, to the maximum extent practicable, be substantially equivalent to that for the civil service grade corresponding to the services to be performed by such individual, but in no case shall the compensation exceed the maximum rate set by the Classification Act pay schedules for grade GS–15; provided, however, that the contract may provide for travel expenses, including actual transportation and per diem in lieu of subsistence while the individual is traveling from his home or place of business to official station and return, as may be authorized by law (5 U.S.C. 73b–2 and CPR T3). In accordance with DOD policy, contracts under the DEFSIP–A program will provide for periodic within-grade salary increases in the same amounts and at the same time intervals as applicable to employees in corresponding Classification Act pay grades. See CPR P8.2.

(e) In procuring personal services by contract, the conflict of interest and other applicable provisions of CPR A9, Employment of Experts and Consultants, must be observed. The pertinent provisions of CPR A9 relating to conflicts of interest shall be specifically incorporated into the contract by reference.

**§ 593.1004 Contracts with organizations for expert or consultant services.**

(a) A contract for personal services to be rendered to the Government should not be made with an organization; e.g., it is improper for a contract with an organization to call for the contractor to supply personnel to work alongside and under the supervision of regular Government employees. Moreover, even though the contract may be prepared on a nonpersonal services basis (e.g., call for an end product), if it is one which calls for the contractor or his employee to exercise for, or on behalf of, the Government that type of discretion or decision which is proper only for exercise by regular personnel of the Government, the contract should not be entered into. Subject to the foregoing, a contract may be entered into with an organization for expert or consultant services if:

(1) The obligation of the contract is that of the organization itself and not of its employee(s) who will actually perform the services and the specific object of the work is set forth clearly in the contract (a contract with a proper scope of work defining the end result, which envisages the issuance of specific task or delivery orders wherein the object of a particular task is more definitively described is not precluded);

(2) Both the terms of the contract and the intended method under which the services will be performed are such that the services are nonpersonal in character (e.g., the relationship resulting is not that of employer-employee; see § 593.1001(b)).

(b) Compensation: The limitations on compensation (see § 593.1003–5(d)) do not apply to a proper nonpersonal services contract with an organization, nor are the services to be counted against civilian personnel authorizations.

(c) Leave and taxes: In case of a proper nonpersonal services contract for expert or consultant services with an organization, the matters of leave, employees are the responsibility of the contractor.

(d) Procedures: Unless the criteria set forth in § 593.1005 apply, Secretarial determinations as required by the statutes described in § 593.1001(a) are not required for nonpersonal services contracts with an organization.

**§ 593.1005 Criteria for submission for Secretarial consideration of proposed contracts for nonpersonal expert or consultant services.**

(a) A proposed contract in which expert or consultant services will be furnished by either an organization or an individual, shall be submitted to the addressee in § 590.150(b)(8) of this chapter for any necessary approval or other action (notwithstanding that the contract describes such services as nonpersonal) if three or more of the following factors exist:

(1) The equipment and supplies necessary to perform the services are to be supplied by the Government;

(2) Office or working space is to be furnished by the Government;

(3) The services will not require the use of special knowledge or equipment possessed by the contractor;

(4) Qualified Government employees are reasonably available to perform the services or can be obtained through normal Civil Service employment procedures, considering availability by transfer, detail, temporary duty, and temporary appointment;

(5) The services are of a continuing rather than a temporary or intermittent character;

(6) The rendition of the services will not result in an end product which is adequately described in the contract;

(7) The fee or price will be based on the time actually worked rather than the results to be accomplished;

(8) The fee or price will not be based on the use of the contractor's facilities, staff or equipment.

(b) When submission to Secretarial level is required pursuant to paragraph (a) of this section, the file submitted shall contain the following:

(1) In the case of an organization, the information required by § 593.1003(a) (1) and (2), except that in lieu of the information under paragraph (a) (1) (iii), the file shall set forth an analysis which the procuring activity considers adequate to demonstrate that it is necessary or substantially more economical or feasible to obtain the services by contract;

(2) In the case of an individual, the information required by § 593.1003–3(a), except that in lieu of the certificate there shall be a statement that if the contract is considered to be for personal services the proposed employment of the contractor will or will not, as the case may be, exceed the civilian personnel authorization established for the Army agency in which the individual is to work. In addition, the file shall describe the unusual circumstances which the procuring activity considers to be adequate to demonstrate either the infeasibility of obtaining the services by means other than contract or the necessity of obtaining the services by contract;

(3) Where the procuring activity considers that the services are nonpersonal, a legal opinion in support thereof which takes into consideration the criteria set forth in § 593.1001(b) and pertinent decisions of the Comptroller General of the United States.

**§ 593.1006 Contracts for stenographic reporting services.**

Stenographic services are normally provided by regular civilian employees who are appointed under the usual civil service procedures. However, there are circumstances involving variable requirements, unavailability of suitably qualified personnel, or economies to the Government where a contract for stenographic reporting services with an individual or organization may be justified; e.g., for furnishing verbatim transcripts of proceedings at irregular intervals where regular employees are not available to perform the services. Such contract shall normally be written on an end-product basis; payment should be predicated on the results delivered, e.g., number of copies of transcript, words per page, and the like; and the contractor should be required to furnish the necessary typewriter, paper, bindings, and other supplies. Such contracts shall normally be awarded only after formal advertising. Before any such contract is entered into it is necessary that it be authorized under a Secretarial determination. If such determination has not been made the approval requirements of § 593.1003–3(a) (1) and (2) shall apply, except that in lieu of the information called for under paragraph (a) (1) (iii), an analysis shall be set forth which the procuring activity considers adequate to demonstrate that it is either necessary or substantially more economical or feasible to obtain the services by contract.

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## PART 594—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

10. Part 594 is revised to read as follows:

Subpart A—Procurement Under Federal Supply Schedule Contracts

Sec.
594.101 Federal supply schedule contracts.
594.102–2 Exceptions to mandatory use.
594.106 Federal supply schedules with multiple award provisions.

Subpart B—Procurement of Supplies From General Services Administration Stores Depots and of Services for Repair and Refinishing From General Services Administration Sources

594.204 Order for supplies.

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Procurement of Printing and Related Supplies

594.601 Printing and related supplies.

Subpart G—[Reserved]

Subpart H—[Reserved]

Subpart I—[Reserved]

Subpart J—[Reserved]

Subpart K—Coordinated Procurement

594.1102 Responsibilities under single procurement.
594.1103–4 Emergency.
594.1103–6 Purchase of decentralized items.
594.1104 Items in short supply.

AUTHORITY: §§ 594.101 to 594.1104 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

### Subpart A—Procurement Under Federal Supply Schedule Contracts

**§ 594.101 Federal Supply Schedule contracts.**

In the case of service station deliveries of gasoline and lubricating oil under Federal Supply Schedule (classes 7 and 14) where an identification card is used, the delivery ticket prepared by the service station and signed by identification card holder at the time of delivery constitutes a "delivery order" consistent with paragraph 3–5, AR 37–107.

**§ 594.102–2 Exceptions to mandatory use.**

When a purchase of supplies or services which are listed in a mandatory Federal Supply Schedule is made on the open market, the payment voucher submitted to the Finance and Accounting Officer shall be accompanied by a copy of the findings made by the contracting officer, after the prescribed query of the contractor, that "the purchase was justified because such supplies or services could not be furnished under Federal Supply Schedule contracts within the delivery period required."

**§ 594.106 Federal Supply Schedules with multiple award provisions.**

(a) User selection of equipment from a Federal Supply Schedule offering multiple award provisions generally shall be governed by price. However, a using activity may request purchase of a particular make, model, or brand name item by providing the contracting officer with a written justification supporting the selection of such item.

(b) When the total purchase price of an order is $2,500 or less, a using activity requesting a brand name item other than the lowest priced item available, shall indicate the justification therefor on Purchase Request and Commitment (DA Form 14–115) or similar form.

(c) When the total purchase price of an order is in excess of $2,500, a using activity requesting a particular make, model, or brand name item other than the lowest priced item, shall furnish to the contracting officer supporting justification for use in documenting the contract file. This justification may include but is not limited to the following:

(1) Required delivery date;

(2) Differences in performance characteristics—including description of desirable features of the brand name item requested (i) which other similar items do not have, (ii) which are considered essential to the operation of the using activity, or (iii) which will increase the operational efficiency of the using activity;

(3) Necessity for compatibility with existing equipment or system;

(4) Lack availability of adequate repair services or repair parts for particular items listed in the schedule; and

(5) Trade-in allowance offered on equipment on hand. For evaluation purposes, when an item is traded in for an item of foreign origin, the percentage factor as required by § 6.104–4 of this title shall be added to the price of the foreign item prior to subtracting the trade-in allowance.

(d) When purchase of an item of foreign origin is desired, the using activity requesting the item shall include justifying information to enable necessary determinations to be made under current statutes and directives pertaining to purchase of supplies for use in the United States.

### Subpart B—Procurement of Supplies From General Services Administration Stores Depots and of Services for Repair and Refinishing From General Services Administration Sources

**§ 594.204 Order for supplies.**

In ordering supplies under MILSTRIP (see AR 725–50) from GSA Stores Depots, the ordering officer shall use the DD Form 1348 Series in lieu of the DD Form 1155 (see § 590.452(c) (1) (ii) of this chapter). This ordering officer shall be the consolidated property officer; or,

if there is no consolidated property officer, the accountable property officer authorized to requisition on the DSA and Army supply systems.

**Subpart C—[Reserved]**

**Subpart D—[Reserved]**

**Subpart E—[Reserved]**

**Subpart F—Procurement of Printing and Related Supplies**

**§ 594.601 Printing and related supplies.**

Departmental procedures applicable to the procurement of printing and related supplies or references thereto are indicated hereafter:

(a) *Printing.* (AR 310–1 and AR 310–5.)

(b) *Envelopes.* (AR 310–5 and Group 75, Federal Supply Schedules.) Procurement procedure pertaining to mailing envelopes and related provisions applying to use of penalty markings are published in AR 341–10.

(c) *Related supplies.* Blank paper, ink, glues, and other related supplies carried in stock by the Government Printing Office shall be purchased from that office if required for use within the District of Columbia.

**Subpart G—[Reserved]**

**Subpart H—[Reserved]**

**Subpart I—[Reserved]**

**Subpart J—[Reserved]**

**Subpart K—Coordinated Procurement**

**§ 594.1102 Responsibilities under single procurement.**

When the Department of the Army has received a procurement assignment under the DOD Commodity Assignment Program, assignment of procurement responsibilities to a particular procuring activity shall be made by the Commanding General, United States Army Materiel Command. The procuring activity assigned procurement responsibility shall be responsible for (a) collecting and coordinating the requirements of the Department of the Army, or the arrangement therefor, and (b) submitting to DOD via the addressees in § 590.150(b)(6) and (17) of this chapter.

**§ 594.1103–4 Emergency.**

Waivers of single procurement assignment procedures under the emergency provision of § 5.1103–4 of this title shall be limited to circumstances and conditions comparable to those described in § 3.202 of this title and § 592.202 of this chapter.

**§ 594.1103–6 Purchase of decentralized items.**

The provisions of § 5.1103–6 of this title shall not be invoked to permit local purchase of assigned items until the Procuring Department has been properly advised of the decision to use local purchase as the normal means for obtaining Department of the Army supply requirements.

**§ 594.1104 Items in short supply.**

Shortages of supplies and services requiring coordination with other Departments shall be reported, with complete information thereon, to the addressee in § 590.150(b)(17) of this chapter for resolution.

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## PART 595—FOREIGN PURCHASES

11. Part 595 is revised except § 595.503–50 in Subpart E, which remains unchanged:

**Subpart A—Buy American Act—Supply and Service Contracts**


595.103 Exceptions.
595.103–2 Nonavailability in the United States.
595.103–5 Canadian supplies.
595.104–4 Evaluation of bids and proposals.
595.105 List of excepted articles, materials, and supplies.


**Subpart B—Buy American Act—Construction Contracts**


595.203–1 Nonavailability in United States.
595.204–3 Evaluation of bids and proposals.
595.205–50 Report of violation.
595.206 List of excepted articles, materials, and supplies.


**Subpart C—Appropriation Act Restrictions on Procurement of Foreign Supplies**


595.304–1 Procurement of food, clothing, woven silk and woven silk blends, spun silk yarn for cartridge cloth, or items containing mohair or cotton.


**Subpart D—Purchase from Soviet-Controlled Areas**


595.402 Exceptions.


**Subpart E—Canadian Purchases**


595.501 Purchases from Canadian suppliers.
595.501–50 Solicitation of Canadian firms.
595.501–51 Submission of bids and proposals.
595.501–52 Preaward survey requirements of Canadian firms.
595.501–53 Solicitation of Canadian sources for research and development procurement.
595.501–54 Security.
595.501–55 Accredited Canadian representatives for procurement purposes.
595.503–50 Letter agreement with the Canadian Army and the Department of Defense Production (Canada) (Development Sharing).
595.504 Mutual Canadian-American interests.


AUTHORITY: §§ 595.103 to 595.504 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

**Subpart A—Buy American Act—Supply and Service Contracts**

**§ 595.103 Exceptions.**

**§ 595.103–2 Nonavailability in the United States.**

(a) The authority to make determinations under § 6.103–2 of this title is hereby delegated to each head of procuring activity. The head of procuring activity may delegate this authority only to his deputy or a principal assistant responsible for procurement, without power of redelegation. Additionally, he may delegate this authority to such contracting officers under his command as he may deem appropriate when the aggregate amount of the purchase does not exceed $10,000. Determinations made by a contracting officer shall be reviewed by the head of procuring activity concerned, his deputy or his principal assistant responsible for procurement within 30 days of issuance. Each determination made pursuant to this section shall be in writing.

(b) The request for a determination to be made pursuant to the authority in paragraph (a) of this section, transmitted to the appropriate authority, shall contain the following information:

(1) Description of the item or items, including unit and quantity;

(2) Estimated cost, including transportation costs to destination and any applicable duty;

(3) Country of origin (see Subpart D, Part 6 of this title regarding restrictions on purchases from Soviet-controlled areas);

(4) Name and address of the proposed contractor;

(5) Brief statement of the necessity for the procurement; and

(6) Statement of facts establishing the nonavailability of items of domestic origin which are similar or which can be used as an acceptable substitute.

(c) The required determination shall be prepared in substantially the form set forth hereafter, with a signed copy to accompany the payment voucher.

DETERMINATION

Date: _____

Pursuant to the authority contained in Section 2, Title III of the Act of 3 March 1933, popularly called the Buy American Act (41 U.S. Code 10 a–d), and authority delegated to me by _____

_____,

I hereby find:

a. (Description of the item or items to be procured, including unit, quantity and estimated cost inclusive of duty and transportation costs to destination.)

b. (Brief statement of the necessity for the procurement.)

c. (Statement of facts establishing the nonavailability of a similar item or items of domestic origin.)

Based upon the above showing of fact, it is determined that the above-described item(s) is (are) not mined, produced, or manufactured, or the articles, materials, or supplies from which it (they) is (are) manufactured, are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Accordingly, the requirement of the Buy American Act that procurement be made from domestic sources and that it be of domestic origin is not applicable to the above-described procurement, since said procurement is within the nonavailability exception stated in the Act. Authority is granted to procure the above-described item(s) of foreign origin (country of origin) at an estimated total cost of $_____, including duty and transportation costs to destination.

_____

(Signature)

### § 595.103–5 Canadian supplies.

The Assistant Secretary of the Army (Installations and Logistics) has determined that the following supplies are of a military character or are involved in programs of mutual interest to the United States and Canada:

(a) All items purchased under contracts for experimental, developmental and research work; and

(b) The following listed supplies identified by Federal Classification Groups and Classes:

Group 10—Weapons (all classes).
Class 1135*—Fuzing and firing devices, atomic ordinance.
Class 1190*—Specialized test and handling equipment, atomic ordnance.
Group 12—Fire control equipment (all classes).
Group 13—Ammunition and explosives (all classes).
Class 1410—Guided missiles.
Class 1420—Guided missile components.
Class 1430—Guided missile remote control systems.
Class 1440—Launchers, guided missiles.
Class 1450—Guided missile handling and servicing equipment.
Group 15—Aircraft and airframe structural components (all classes).
Group 16—Aircraft components and accessories (all classes).
Group 17—Aircraft launching, landing and ground handling equipment (all classes).
Class 1930—Barges and lighters, cargo.
Class 1935—Barges and lighters, special purpose.
Class 1940—Small craft.
Class 1945—Pontoons and floating docks.
Group 20—Ship and marine equipment (all classes).
Group 22—Railway equipment (all classes).
Group 23—Motor vehicles, trailers, cycles (all classes).
Group 24—Tractors (all classes).
Group 25—Vehicular equipment components (all classes).
Group 26—Tires and tubes (all classes).
Group 28—Engines, turbines and components (all classes).
Group 29—Engine accessories (all classes).
Group 30—Mechanical power transmission equipment (all classes).
Group 31—Bearings (all classes).
Group 34—Metal working machinery.
Class 3615—Pulp and paper industries machinery.
Class 3625—Textile industries machinery.
Class 3695—Miscellaneous special industry machinery.
Group 38—Construction, Mining, Excavating (all classes).
Group 39—Materials handling equipment (all classes).
Group 41—Refrigeration and air conditioning equipment (all classes).
Class 4210—Fire fighting equipment (all classes).
Class 4240—Safety and rescue equipment.
Group 43—Pumps and compressors (all classes).
Class 4410—Industrial boilers.
Class 4420—Heat exchangers and steam condensers.
Class 4470—Nuclear reactors.
Class 4520—Space heating equipment and domestic water heaters.
Group 46—Water purification and sewage treatment equipment (all classes).
Group 47—Pipe, tubing, hose and fittings (all classes).
Group 48—Valves (all classes).
Group 49—Maintenance and repair shop equipment (all classes).
Class 5220—Inspection gages and precision layout tools.
Group 53—Hardware and abrasives (all classes).
Group 54—Prefabricated structures and scaffolding (all classes).
Group 55—Lumber, millwork, plywood and veneer (all classes).
Group 56—Construction and building materials (all classes).
Group 58—Communication equipment (all classes).
Group 59—Electrical and electronic equipment components (all classes).
Group 61—Electric wire and power distribution equipment (all classes).
Class 6210—Indoor and outdoor electric lighting fixtures.
Glass 6220—Electric vehicular lights and fixtures.
Class 6340—Aircraft alarms and signal systems.
Group 66—Instruments and laboratory equipment (all classes).
Class 6710—Cameras, motion picture.
Class 6720—Cameras, still picture.
Class 6730—Photographic projection equipment.
Class 6770—Film, processed.
Group 68—Chemicals and chemical products (all classes).
Group 69—Training aids and devices (all classes).
Class 7440—Automatic data processing systems: industrial scientific and office types.
Class 7610—Books and pamphlets.
Class 7650—Drawings and specifications.
Class 8010—Paints, dopes, varnishes and related products.
Class 8020—Paint and artists brushes.
Class 8030—Preservatives and sealing compounds.
Class 8115—Boxes, cartons and crates.
Class 8140—Ammunition boxes, packages and special containers.
Class 9320—Rubber fabricated materials.
Class 9330—Plastics fabricated materials.
Class 9350—Refractories and fire surfacing materials.
Group 95—Metal bars, sheets and shapes (all classes).

End equipment parts (repair parts) for the above listed supplies are considered to be included in the above list, even though not separately listed, when they are procured under a contract that also calls for listed supplies.

*Subject to Atomic Energy Act restrictions.

### § 595.104–4 Evaluation of bids and proposals.

Proposed awards submitted for Secretarial decision in accordance with § 6.104–4(c) of this title shall include complete documentation on all factors pertinent to the required Secretarial action and a proposed award recommendation. Provision with respect to extending acceptance dates of bids or proposals shall be made by purchasing offices, as appropriate.

### § 595.105 List of excepted articles, materials, and supplies.

Additional determinations pursuant to § 6.103–2 of this title, covering individual procurements, will be made in accordance with § 595.103–2.

## Subpart B—Buy American Act—Construction Contracts

### § 595.203–1 Nonavailability in United States.

Determinations under § 6.203–1 of this title may be made by those individuals having authority to make determinations under § 595.103–2. Such determinations shall be accomplished as prescribed in § 595.103–2.

### § 595.204–3 Evaluation of bids and proposals.

Proposed awards submitted for secretarial decision in accordance with § 6.204–3(c) of this title shall include complete documentation on the conditions set forth in § 6.204–3(c) of this title, a copy of the bid or proposal which is the basis of the proposed award, and a proposed award recommendation. Provision with respect to extending acceptance dates of bids or proposals shall be made by purchasing offices, as appropriate.

### § 595.205–50 Report of violation.

When a contractor has failed to comply with or is suspected of having failed to comply with the terms of the clause required by § 6.204–5 of this title, the contracting officer shall prepare and forward a report thereof in accordance with § 590.650 of this chapter.

### § 595.206 List of excepted articles, materials, and supplies.

Additional determinations pursuant to § 6.203–1 of this title will be made in accordance with § 595.103–2(b).

## Subpart C—Appropriation Act Restrictions on Procurement of Foreign Supplies

### § 595.304–1 Procurement of food, clothing, woven silk and woven silk blends, spun silk yarn for cartridge cloth, or items containing mohair or cotton.

If the contracting officer finds that the price for any domestic supply included in § 6.304–1 of this title is unreasonable, he shall forward, through channels, to the addressee in § 590.150(b)(6) of this chapter a request for Secretarial determination with respect to § 6.303(g) of this title. Such request shall be accompanied by:

(a) A proposed Secretarial determination in the format set forth in § 595.103–2(c), with appropriate changes in text to include statutory references and to conform to a determination that a satisfactory quality and sufficient quantity grown or produced in the United States cannot be procured as and when needed at United States market prices; and

(b) Complete documentation to support the requested determination.

## Subpart D—Purchases From Soviet-Controlled Areas

### § 595.402 Exceptions.

(a) With respect to an exception pursuant to § 6.402(b)(1) of this title, the procedures set forth herein govern. "United States," as used in this section, is defined in § 6.101(c) of this title.

(1) When the supplies are to be used in the United States, the exception may be granted only after a determination has been made pursuant to § 595.103–2. Such determination shall include a finding that there is no known item from sources other than Soviet-controlled areas which can be used as a reasonable substitute.

(2) When the supplies are to used outside the United States, the contracting officer shall include in the contract file a justification for the exception.

(b) With respect to an exception pursuant to § 6.402(b)(2) of this title, the procedures set forth herein govern.

(1) When the supplies are to be used in the United States, the request shall be accompanied by (i) a proposed Secretarial determination in the format set forth in § 595.103–2(c), modified appropriately to include a finding that there is no known acceptable substitute available from any other source, and (ii) by complete documentation to support each element of the requested determination (§ 595.103–2(b)).

(2) When the supplies are to be used outside the United States, the request shall be accompanied by a complete justification for the exception.

## Subpart E—Canadian Purchases

### § 595.501 Purchases from Canadian suppliers.

Any contract for supplies or services from sources in the Dominion of Canada shall be made with, and administered through, the Canadian Commercial Corporation through its Washington Office, except:

(a) Under circumstances of public exigency as described in § 3.202–2 of this title, procuring activities are authorized to negotiate directly with suppliers or contractors domiciled in the Dominion of Canada without reference to the Canadian Commercial Corporation;

(b) Subject to applicable restrictions of §§ 592.205 and 592.211 of this chapter, procuring activities are authorized to negotiate directly for research services with any university, college, or educational institution located in the Dominion of Canada without reference to the Canadian Commercial Corporation; or

(c) When the Canadian Commercial Corporation requests that the procurement be placed directly with Canadian suppliers or contractors.

### § 595.501–50 Solicitation of Canadian firms.

Canadian firms should be included on bidders' mailing lists and comparable source lists only upon request by the Canadian Commercial Corporation. Such requests should be directed to the activity having procurement responsibility for the supplies or services involved. Invitations for bids and requests for proposals shall be sent directly to the Canadian firms appearing on the appropriate bidders' mailing list. A copy of the investigation for bids or request for proposals and a listing of all Canadian firms solicited shall be sent to the Canadian Commercial Corporation, 2450 Massachusetts Avenue NW., Washington, D.C. Invitations for bids and requests for proposals also shall be furnished to the Canadian Commercial Corporation, if requested by the Corporation for its own account, even though not furnished to Canadian firms.

### § 595.501–51 Submission of bids and proposals.

(a) Except as provided in § 595.501 (a), (b) and (c), bids and proposals received directly from Canadian firms shall not be accepted, but shall be referred to the Canadian Commercial Corporation for appropriate action.

(b) Bids of the Canadian Commercial Corporation normally will be subject to the same consideration with respect to determining responsiveness as is applied to domestic bids.

### § 595.501–52 Preaward survey requirements of Canadian firms.

(a) Except as provided in § 595.501, prime contracts for supplies or services procured from sources in the Dominion of Canada shall be awarded to the Canadian Commercial Corporation and further subcontracted to sources selected by the Canadian Commercial Corporation.

(b) In determining the responsibility of the contractor where procurements are placed with Canadian sources, the contracting officer shall document the file as required by § 1.904 of this title with a record of his determinations as to the responsibility of the first tier subcontractor selected by the Canadian Commercial Corporation to perform the contract.

(c) The preaward qualification check or survey information required by the contracting officer as the basis for the determination referred to in (b) above, may be obtained by direct request to the Canadian Commercial Corporation. To the extent deemed necessary, surveys may be performed by the contracting officer or by his representative in lieu of or in addition to preaward qualification survey information furnished by the Canadian Commercial Corporation.

### § 595.501–53 Solicitation of Canadian sources for research and development procurement.

(a) In cases concerning research and development, whether or not requests for proposals have been furnished to known Canadian sources, three copies of the request for proposal or notice of prenegotiation briefing shall be furnished the Washington office of the Canadian Commercial Corporation by cover letter which specifically refers to the inclosure and includes one of the following statements, as appropriate:

(1) "Copies of the inclosure have been addressed to these Canadian sources: [Here Insert List]"

(2) "Copies of the inclosure have not been addressed to any Canadian source. The inclosed copies are furnished to the Canadian Commercial Corporation for distribution to such Canadian sources considered capable of and possibly interested in competing for this research and development work. Reproduction of the inclosure is authorized."

(b) Canadian sources have been authorized to communicate directly with the installation or activity initiating the procurement when unclassified questions arise regarding solicitations. Direct replies shall be made to the requesting source. Two copies of the replies shall be furnished to the Canadian Commercial Corporation.

(c) Classified replies shall be made to the Canadian source through the Canadian Commercial Corporation.

### § 595.501–54 Security.

(a) The furnishing of classified information to the Canadian Commercial Corporation shall be governed by current security regulations, including:

(1) DOD Industrial Security Manual for Safeguarding Classified Information;

(2) Disclosure of Classified Military Information to Foreign Governments;

(3) AR 380–25, Visitors;

(4) AR 380–130, Armed Forces Industrial Security Regulations;

(5) AR 380–131, Industrial Security;

(6) AR 580–10, Policy and Procedure Governing the Disclosure and/or Exchange of Atomic Information under Agreements for Cooperation Regarding Atomic Information for Manual Defense Purposes; and

(7) AR 580–12, Release of Information Concerning Guided Missiles, and Vulnerability of Weapons Systems to Electronic Countermeasures.

(b) Classified military information which may not be released under authority of the references cited in paragraph (a) of this section may be released only upon the prior approval of the Assistant Chief of Staff for Intelligence.

(c) All visits by Canadian nationals to Army installations or activities and to contractors' or subcontractors' plants will be cleared on a government-to-government basis in conformance with the procedures of AR 380–25 and AR 380–130.

### § 595.501–55 Accredited Canadian representatives for procurement purposes.

Accreditation to a procuring activity of Canadian representatives may be established for performance of a procurement function for Canada after appropriate coordination among the head of procuring activity, the Canadian Department of Defence Production, and the Canadian Commercial Corporation. A procuring activity is authorized to release to duly accredited representatives of the Canadian Government classified military information necessary for procurement by prime contract to Canadian contractors or by subcontract to Canadian sources from Canadian contractors, within the terms of their procurement accreditation and provided the classified information is releasable under the criteria set forth in the references contained in § 595.501–54(a).

### § 595.503–50 Letter Agreement with the Canadian Army and the Department of Defence Production (Canada) (Development Sharing).

NOTE: The text of § 595.503–50 remains unchanged.

### § 595.504 Mutual Canadian-American interests.

(a) *General.* In implementing the Department of Defense policy of seeking the best possible coordination of the materiel programs of Canada and the United States, the Assistant Secretary of the Army (Installations and Logis-

tics) has made determinations concerning listed supplies and instructions with respect to bids and proposals offering Canadian end products, as set forth in Subparts A and E of this part.

(b) *Application.* The alleviation of the restrictions of the Buy American Act with respect to Canadian supplies as prescribed in this Section applies to the evaluation of bids or proposals in solicitations involving competitive bidding on (1) supply contracts, (2) research and development contracts, and (3) contracts for services involving articles, materials and supplies.

(c) *Limitations.* The authority contained in this part, with respect to Canadian supplies, shall not be used in instances where a solicitation and award must be limited to, or placed with, a domestic source in accordance with one or more of the following:

(1) Requirement for U.S. Mobilization Base;

(2) Small Business Set-Aside program;

(3) Labor Surplus Area Set-Aside program;

(4) Disaster Area program;

(5) Negotiated procurement in the interests of standardization (§ 3.213 of this title);

(6) Appropriation acts restrictions; or

(7) Other specific requirements in the interests of the U.S. Government in individual cases as approved by the addressee in § 590.150(b)(6) of this chapter.

## PART 598—PATENTS, COPYRIGHTS, AND TECHNICAL DATA

12. Section 598.105–67 is revised to read as follows:

### § 598.105–67 Contract distribution.

(a) *General.* The designee shall obtain the original and at least one executed copy of each release, license, and assignment made in accordance with these paragraphs. The original shall be forwarded by the designee (unless the contract does not involve the payment of money to the contractor) to the addressee in § 590.150(b)(12) of this chapter for the General Accounting Office. The executed copy, together with a second copy which may be unexecuted (photostatic preferred), shall be transmitted without delay by the designee to the Chief, Patents Division for recording in the United States Patent Office. The memorandum of transmittal shall include the designee's recommendation whether the instrument should be filed in the public register, departmental register, or the secret register. This memorandum shall also set forth: (1) The name of the claimant; name of the releasor, licensor, or assignor; and name of the patentee or inventor; (2) the patent number or patent application serial number; and (3) a statement that the instrument effects settlement of the claim for which clearance was granted.

(b) *Contracts providing for payment of a running royalty.* A copy of each license which provides for the payment of a running royalty shall be transmitted by the designee to each interested head of procuring activity. Receipt of such copy shall constitute notice that future procurement of the licensed subject matter requires the payment of royalties to the licensor. Where necessary, such interested head of procuring activity shall notify procurement and price analysis offices affected.

## PART 599—BONDS AND INSURANCE

13. Part 599 is revised to read as follows:

Subpart A—Bonds

Sec.
599.103–2 Performance bonds in connection with construction contracts.
599.103–50 Additional performance bonds; consent of surety.
599.104 Payment bonds.
599.104–1 Payment bonds in connection with contracts other than construction contracts.
599.104–2 Payment bonds in connection with construction contracts.
599.104–50 Additional payment bonds; consent of surety.
599.105 Advance payment bonds.
599.107 Other types of bonds.
599.108 Execution and administration of bonds.

Subpart B—Sureties on Bonds

599.201 General requirements of sureties.
599.202 Options in lieu of sureties.
599.202–1 United States bonds or notes.
599.203 Consent of surety.

Subpart C—Insurance—General

599.301 General.
599.303 Responsibility for loss of or damage to Government property.
599.350 Overseas.
599.351 Boiler inspection service.
599.352 Coordination.

Subpart D—Insurance Under Fixed-Price Contracts

599.403 Workmen's compensation insurance overseas.
599.450 Work at Government installations.
599.451 Insurance in negotiated fixed-price contracts.
599.452 Accident and disability insurance for extra-hazardous occupations.

Subpart E—Insurance Under Cost-Reimbursement Type Contracts

599.501 Policy.
599.501–1 Workmen's compensation and employers' liability insurance.
599.501–2 General liability insurance.
599.501–3 Automobile liability insurance.
599.501–4 Aircraft public and passenger liability insurance.
599.502 Self-insurance.
599.503 Government property.
599.503–50 Liability for loss.
599.550 Group insurance plans.
599.551 Accident and disability insurance for extra-hazardous occupations.
599.552 Insurance carrier.
599.553 Review and approval of contractors' insurance programs.
599.554 Action on termination or completion of contract.

Subpart F [Reserved]

Subpart G—Special Casualty Insurance Rating Plans

599.750 Application of National Defense Projects Rating Plan.
599.751 Insurance advisors.
599.752 Defense Department group term insurance plan.

AUTHORITY: §§ 599.103–2 to 599.752 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

### Subpart A—Bonds

#### § 599.103–2 Performance bonds in connection with construction contracts.

Where the contracting officer finds that to require a 100 percent performance bond would be disadvantageous to the Government, a penal amount of not less than 50 percent of the contract price will be required. Authority is delegated to the head of procuring activity concerned, and to such other persons as he may designate, to determine whether a performance bond shall be required in connection with cost-reimbursement type construction contracts.

#### § 599.103–50 Additional performance bonds; consent of surety.

(a) Additional performance bond protection in support of construction contracts shall be obtained as required in § 10.103–2(b) of this title. If a contract other than a construction contract is increased in price or modified to cover new or additional work, the contracting officer shall decide whether to require additional performance bond protection, following principles set forth in § 10.103–1 of this title. When additional bond protection is required and is obtained from the original surety, the format contained in § 599.203(a) may be used.

(b) When additional performance bond protection is not required under paragraph (a) of this section, consent of surety shall be obtained in accordance with the provisions of § 599.203(b).

#### § 599.104 Payment bonds.

#### § 599.104–1 Payment bonds in connection with contracts other than construction contracts.

Authority is delegated to contracting officers to decide whether a payment bond will be required to support a contract other than a construction contract. Generally, payment bonds for such contracts should be required only if a performance bond is also required, in which case the penal sum of the payment bond should ordinarily be equal to or less than that of the performance bond. Among the factors to be considered by a contracting officer in deciding whether to require a payment bond are the following: (a) The financial resources of prospective contractors; (b) whether such bond would facilitate the performance of the contract (e.g., by favorably affecting suppliers' willingness to extend credit to prospective contractors); and (c) whether such bond will increase the cost of the procurement. Ordinarily, if a performance bond is required, a payment bond of equal penal amount can be obtained at no additional cost.

#### § 599.104–2 Payment bonds in connection with construction contracts.

Pursuant to § 10.104–2(c) of this title, each head of procuring activity, or a designee, is authorized to determine

whether a payment bond will be required in connection with cost-reimbursement type construction contracts.

**§ 599.104–50 Additional payment bonds; consent of surety.**

(a) Additional payment bond protection in support of construction contracts shall be obtained as required in § 10.104–2(b) of this title. If a contract other than a construction contract is increased in price or modified to cover new or additional work, the contracting officer shall decide whether to require additional payment bond protection, following principles set forth in § 10.104–1 of this title. When additional bond protection is required and is obtained from the original surety, the format contained in § 599.203 (a) may be used.

(b) When additional payment bond protection is not required under paragraph (a) of this section, consent of surety shall be obtained in accordance with the provisions of § 599.203(b).

**§ 599.105 Advance payment bonds.**

Requirement for a bond relating to advance payments shall be established only in the most exceptional circumstances. Where a head of procuring activity considers that an advance payment bond is desirable, recommendation to that effect with justification as to the penal sum thereof shall be forwarded to the Director of Contract Financing, Office of Comptroller of the Army. (§ 163.63 of this title.)

**§ 599.107 Other types of bonds.**

(a) Fidelity bonds shall be required in connection with cost reimbursement-type contracts for supplies, construction, or operation of Government-owned plants only in those cases where the head of procuring activity concerned, or his designee, considers such bonds are necessary for the protection of the Government. When a fidelity bond is required, a Primary Commercial Blanket Bond or a Blanket Position Bond in the penal sum of $10,000 will be considered sufficient. The bond form as standardized by the Surety Association of America, or its equivalent, is the approved bond form. When a requirement is placed on the contractor to obtain blanket fidelity protection, the contractor shall be cautioned to obtain all appropriate discounts.

(b) Forgery bonds shall be required in connection with cost reimbursement-type contracts for supplies, construction, or operation of Government-owned plants only in those cases where the head of procuring activity concerned, or his designee, considers such bond or policy necessary for the protection of the Government, or if it is considered desirable to obtain the investigative and claims services of a surety company. When such bond or policy is required, a penal sum in the amount of $10,000 will be considered sufficient. The depositors' form of forgery bond or policy as standardized by the Surety Association of America, or its equivalent, is the approved form.

(c) Unless included as a part of the bond form, the provisions set forth in subparagraphs (a) through (d) of this paragraph shall be provided in riders or endorsements to fidelity and forgery bonds to require that—

(1) A pro-rata refund of the premium shall be made in the event of cancellation by the insured due to completion of the work;

(2) The contracting officer shall be given notice prior to the making of any material change in or cancellation of the bond;

(3) After a loss has been sustained and with respect to undiscovered or future losses, restoration shall be made of the full amount of the bond without additional premium charge; and

(4) The surety waives all rights to be subrogated, on payments of losses or otherwise, to any claim against the Government arising out of performance of a cost-reimbursement type contract.

The surety shall agree, either by rider or endorsement attached to the bond, or by written assurance to the contractor, that it will investigate all claims and investigate under the fidelity bond all Class A employees as reported by the contractor.

**§ 599.108 Execution and administration of bonds.**

(a) *Execution, examination and distribution of bonds and consent of surety.* (1) All bonds shall be executed in duplicate. The original of all surety bonds required by procuring activities (except as hereinafter provided in subparagraph (3) of this paragraph shall be forwarded to The Judge Advocate General, Department of the Army, Washington 25, D.C. If such bond was required in support of a contract or modification thereof, the original signed bond should be attached to the original signed contract or modification thereof, as the case may be, and forwarded to The Judge Advocate General. In the event it is not practicable to forward the original contract or modification, a signed duplicate or an authenticated copy thereof should be attached to the original bond and forwarded to The Judge Advocate General. The Judge Advocate General shall examine bonds as to legal sufficiency, including proper form and execution, the authority of corporate officials who execute bonds on behalf of corporate principals or sureties, and compliance by individual sureties with § 599.201(b). The Judge Advocate General then shall forward the bond, together with any contract or modification thereof which it supports, to the proper office for filing. The duplicate bond shall be retained and filed in the office to which it pertains or which authorized its acceptance.

(2) Consents of surety shall be handled in the same manner as bonds, except that, for more expeditious handling, they may be forwarded without signature by the surety to The Judge Advocate General for execution under the Expediter Plan and approval.

(3) The following bonds shall not be forwarded to The Judge Advocate General:

(i) Blanket fidelity and forgery bonds,

(ii) Bid bonds (except annual bid bonds). The original and duplicate numbers shall be retained in the office to which they pertain or which authorized their acceptance.

(b) *Authority of The Judge Advocate General as to substitute surety bonds.* The Judge Advocate General is authorized to act for the Secretary in accepting a new surety bond in substitution for a bond previously approved covering part or all of the same obligation, and in authorizing the notification of the principal and surety on the bond originally furnished that it will not be considered as security for any default occurring subsequent to the date of approval of the new bond. The Judge Advocate General is authorized to delegate such function to personnel within his office.

(c) *Bond forms.* Standard bond forms are set forth in § 16.805 of this title and shall be used in accordance with the instructions accompanying each form. In the case of United States bonds or notes deposited by a contractor with a contracting officer in lieu of surety (§ 599.202–1), the contracting officer shall forward to The Judge Advocate General the surety bond with a certified copy of the required power of attorney and agreement, and of the receipt received by the contracting officer for the deposited United States bonds or notes.

## Subpart B—Sureties on Bonds

**§ 599.201 General requirements of sureties.**

(a) *Corporate sureties*—(1) *Acceptability.* The head of procuring activity is responsible for distribution of the Treasury Department List (TD Circular 570). Requisitions for corporate surety lists shall be submitted to The Judge Advocate General annually on or before 1 April.

(2) *Qualifications of agents and corporate sureties.* Corporate sureties should forward to The Judge Advocate General, Department of the Army, Washington 25, D.C., the following documents for filing:

(i) Powers of attorney (on forms which may be obtained from The Judge Advocate General) or certified copies of resolutions of their Boards of Directors or Trustees, which authorize their officers or agents to execute bonds, and

(ii) Certificates evidencing the revocation of authority previously granted to execute bonds.

(3) *Corporate cosureties.* More than one corporate surety may be accepted as surety upon any recognizance, stipulation, bond or undertaken in connection with either supply or construction contracts: *Provided,* That in no case shall the liability of any such cosurety exceed the maximum penal sum in which the corporate surety is qualified to underwrite any one obligation. On bonds covering supply contracts where the amount of the bond is greater than the underwriting limitation of the corporate surety, the latter may reinsure with a corporation on the acceptable list of corporate sureties having the required underwriting capacity. Reinsurance agreements are not acceptable in connection with construction contracts. It is not necessary that corporate cosureties obligate themselves for the full

amount of the bond. Each corporate surety may limit its liability in the bond to a specified sum. The sureties must bind themselves "jointly and severally" for the purpose of allowing a joint action or actions against any or all of them. When the bond is to be executed by two or more corporate sureties, Standard Form 27 shall be used in the case of a performance bond and Standard Form 27A shall be used in the case of a payment bond.

(b) *Individual sureties*—(1) *Acceptability.* Individual sureties are acceptable for all types of bonds other than position schedule bonds (AR 600–13). An individual surety shall be a citizen of the United States, except that sureties on bonds executed in foreign countries, possessions of the United States, or Puerto Rico, to secure the performance of contracts entered into in those places need not be citizens of the United States, but if not citizens of the United States shall be domiciled in the place where the contract is to be performed.

(2) *Number.* If individual sureties are used there shall be at least two responsible individual sureties on each bond.

(3) *Extent of liability.* The liability of each individual surety shall extend to the entire penal amount of the bond.

(4) *Justification.* Individual sureties shall each justify, under oath, in an amount not less than the penal amount of the bond.

(5) *Stockholders as sureties.* On any bond of which a corporation is the principal obligor, a stockholder of that corporation is acceptable as cosurety on the bond: *Provided,* That his net worth exclusive of his stock holdings in the corporation is equal to the amount for which he justified: *And provided further,* That such fact is expressly stated in his affidavit of justification.

(6) *Affidavit of individual surety.* Standard Form 28 shall be used in connection with the justification of an individual surety.

(c) *Partnerships as sureties.* A partnership or other unincorporated association, as such, will not be accepted as surety. The individual members of the partnership or association may if they meet the requirements of paragraph (b) of this section qualify as sureties. Individual members of a partnership or association will not be acceptable as sureties on bonds under which the partnership or association, or any copartner or member thereof, is the principal obligor.

(d) *Substitution or replacement of a surety.* In case of financial embarrassment, failure, or other disqualifying cause on the part of a surety under a bond, the head of procuring activity concerned will require the substitution of a new surety satisfactory to him.

### § 599.202 Options in lieu of sureties.

### § 599.202–1 United States bonds or notes.

Except in the District of Columbia, securities, appropriate powers of attorney and agreements shall be turned over to the local Finance and Accounting Officer for safekeeping. (See § 599.108(c).)

### § 599.203 Consent of surety.

(a) The consent of surety set forth in paragraph (d)(1) of this section is authorized for use in connection with a modification providing for an increase in the penal sum of a bond previously given by the same surety.

(b) The consent of surety set forth in paragraph (d)(2) of this section shall be obtained from the surety or sureties on existing bonds in connection with any amendment, modification, or supplemental agreement if:

(1) Additional bond is obtained from other than the original surety, or

(2) No additional bond is required and (i) the modification is for new or additional work beyond the scope of the contract, or (ii) the modification does not enlarge or diminish the scope of the contract, but changes the contract price (upward or downward) by more than $25,000 or 15 percent of the contract price, whichever is less.

(c) See § 1.1602(b)(10) of this title for cases involving novation or change of name agreements.

(d) Forms: (1) See paragraph (a) of this section.

CONSENT OF SURETY

Date _____ Modification No. _____
Contract No. _____

Consent of Surety is hereby given to the foregoing contract modification, and the surety agrees that its bond or bonds shall apply and extend to the contract as modified or amended thereby. The principal and surety further agree that on and after the execution of this consent, the penalty of the aforementioned performance bond or bonds is hereby increased by _____ dollars, and the penalty of the aforementioned payment bond or bonds is hereby increased by _____ dollars.*

In presence of—

_____
_____
(Address)

[SEAL]
_____
(Individual principal)**
_____
(Business address)

_____
(Corporate principal)**
_____
(Business address)
By _____
[Affix corporate seal]
_____

Attest:
_____

_____
(Surety)
_____
(Business address)
By _____
[Affix corporate seal]
_____

Attest:
_____

(2) See paragraph (b) of this section.

CONSENT OF SURETY

Date _____ Modification No. _____
Contract No. _____

Consent of Surety is hereby given to the foregoing contract modification, and the surety agrees that its bond or bonds shall apply and extend to the contract as modified or amended thereby.

_____
(Surety)
_____
(Business address)
By _____
[Affix corporate seal]
_____

Attest:
_____

*The penalty of the payment bond shall not be increased beyond two million five hundred thousand dollars.

**This consent shall be executed concurrently with the execution of the attached modification by the same person who executes the modification. If the individual who signs the consent on behalf of a corporation does not execute the modification, a Certificate of Corporate Principal shall be submitted with the consent.

## Subpart C—Insurance—General

### § 599.301 General.

A head of procuring activity may authorize or require the purchase of insurance where commingling of property or the conditions of the contract make the carrying of insurance reasonably necessary for the protection of the several interests concerned. The term "insurance" includes, but is not limited to, the following forms of coverage, whether provided under an insurance policy issued by privately-operated insurance companies or underwriters, or under a state operated insurance fund, or under an approved self-insurance plan:

(a) Workmen's Compensation and Employers' Liability;
(b) General Liability;
(c) Automobile;
(d) Aircraft;
(e) Physical Damage (property);
(f) Bonds;
(g) Employees Group Insurance (Life, Hospitalization, Accident and Health, Surgical, etc.); and
(h) Extra-Hazardous Accident.

### § 599.303 Responsibility for loss of or damage to Government property.

Except with respect to advertised fixed-price contracts, it is the policy of the Department of the Army not to hold prime contractors responsible for loss of or damage to Government property caused by certain perils. (§§ 13.411, 13.502, and 13.503 of this title and §§ 602.502 and 602.503 of this chapter.) This policy is based upon the principle that insurance costs will not be incurred and consequently will not be reflected in the contract price or contract cost. Where, however, due to the commingling of Government and contractor's property, or for other reasons, relief of the contractor from liability will not result in a reduction of the contract price or contract cost to the Government, this policy may be waived and the contractor held fully responsible in the same manner as in advertised fixed-price contracts. (See § 15.205–16 of this title.) The policy governing the responsibility and liability of subcontractors for Government property is set forth in § 13.104–2 of this title.

§ 599.350 Overseas.

Where insurance coverages are not available outside the United States, its possessions, and Puerto Rico because of the absence of competent or financially responsible insurance carriers, a head of procuring activity is authorized to waive the insurance coverages not mandatory under Subchapter A, Chapter I, of this title.

§ 599.351 Boiler inspection service.

Boiler inspection service will be provided as required by AR 420–49 and AR 850–300. The purchase of boiler insurance to cover Government-owned boilers is not authorized, but inspection services may be procured, as necessary, to meet the requirements of the referenced Army Regulations.

§ 599.352 Coordination.

Where the Department of the Navy or the Department of the Air Force has an interest in the contractor's insurance program, coordination will be effected with the Contract Insurance Branch, Office of Naval Material, Washington 25, D.C., or the Bond and Insurance Section, Air Force Logistics Command, Wright-Patterson Air Force Base, Ohio, as appropriate. Prior approval of a contractor's insurance program by another Military Department shall be considered by a head of procuring activity in determining the adequacy of the contractor's program and shall be accepted subject to whatever modification may be appropriate.

## Subpart D—Insurance Under Fixed-Price Contracts

§ 599.403 Workmen's compensation insurance overseas.

Request for waiver of the requirements of the Defense Base Act as amended (42 U.S.C. 1651 et seq.), will be forwarded through channels to the addressee in § 601.050 of this chapter.

§ 599.450 Work at Government installations.

(a) All contractors and subcontractors performing construction or repair or furnishing utilities within a Government installation shall be required to furnish a statement in writing to the contracting officer attesting to the existence, in addition to legally required insurance, of comprehensive general liability and comprehensive automobile insurance, in each instance, for both bodily injury and property damage in such limits as the contracting officer deems reasonable under the circumstances. Prime contractors shall be responsible for insuring compliance with the foregoing by their subcontractors. The invitation for bids or request for proposals shall state the minimum insurance coverage required.

(b) In satisfaction of the foregoing requirements, contracting officers may accept annual statements from contractors and subcontractors.

(c) The foregoing requirements are not applicable to prime contracts of less than $2,500, or for work to be performed outside the United States, its possessions and Puerto Rico.



§ 599.451 Insurance in negotiated fixed-price contracts.

The costs of insurance in negotiated fixed-price contracts are not subject to the same degree of controls and supervision which are exercised under cost-reimbursement type contracts; however, a contractor's insurance program may develop costs which are substantial and which may have a material effect on the contract price. Consistent with the Department of the Army policy of close-pricing, evaluation of that portion of the contract price attributable to the contractor's insurance program should be given careful consideration to establish as accurately as possible the insurance costs applicable to the contract.

§ 599.452 Accident and disability insurance for extra-hazardous occupations.

The insurance described in § 599.551 (a) for cost-reimbursement type contracts is available for use in fixed-price type contracts.

## Subpart E—Insurance Under Cost-Reimbursement Type Contracts

§ 599.501 Policy.

(a) The limits of liability set forth in the following subparagraphs are those to be ordinarily required. These limits may be modified in specific instances by the head of procuring activity, his deputy, or principal assistant for procurement in his headquarters. The head of procuring activity may require additional types of insurance coverage.

(b) Where the cost of insurance coverage is included in the overhead rate, the contract schedule shall specifically provide that the insurance cost included therein shall not be an item for separate reimbursement under the contract. The contracting officer, in establishing insurance costs for overhead rate negotiations, shall ascertain to the extent possible that such costs are net after anticipated dividends or other credits, or shall provide for proportionate recovery for the benefit of the Government of any dividends or credits not anticipated in the overhead rate calculations.

§ 599.501–1 Workmen's compensation and employers' liability insurance.

(a) Workmen's compensation insurance protects the employer against liability imposed by a workmen's compensation law to pay benefits and furnish medical care to employees injured, and to pay benefits to the dependents of the employees killed, in the course of and arising out of their employment. Employers' liability insurance protects an employer against claims for damages which may arise out of injuries to employees in the course of their work where such work or injury is not covered by the workmen's compensation law. Employers' liability insurance shall be required, and endorsed to provide (1) in jurisdictions where the workmen's compensation law does not cover all occupational diseases, occupational disease coverage in limits of $100,000 for any one policy year; and (2) in those jurisdictions where there is a "per accident" limitation coverage under subparagraph 1(b) of the insurance policy, additional limits up to $100,000 for each accident. In jurisdictions where workmen's compensation coverage is carried in a state fund which does not provide the protection afforded by the requirements of subparagraphs (1) and (2) of this paragraph, and the workmen's compensation act of the jurisdiction is not the exclusive remedy of employees against employers for all injuries or diseases relating to the employment, employers' liability insurance shall be purchased in the following amounts: accidental injury $50,000 per person, $100,000 per accident; and occupational disease $100,000 aggregate per year.

(b) The Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901), as amended by the Defense Base Act (42 U.S.C. 1651 et seq.), provides that certain workmen's compensation benefits must be afforded employees of any contractor with the United States on any military, air, or naval defense base or public work as defined therein outside the United States, other than contractors or subcontractors engaged exclusively in furnishing materials or supplies. Where it is desired that the benefits under this law be waived with respect to employees other than United States citizens and other than employees hired in the United States, a request for waiver shall be submitted by the head of procuring activity to the addressee in § 601.050 of this chapter.

(c) The States of California, New Jersey, New York, and Rhode Island have imposed upon employers the obligation to afford benefits for nonoccupational disability as well as for disability in the course of and arising out of employment. Employers may, under State law, be given the option of insuring with companies or underwriters or of self-insuring this obligation.

§ 599.501–2 General liability insurance.

(a) General liability insurance for bodily injury protects the insured against loss due to claims for bodily injury arising from its business premises or operations (except those arising from motor vehicles away from the premises, those covered by any workmen's compensation law, and other exclusions stated in the policy). The comprehensive policy shall be required with limits of $50,000 per person and $100,000 per accident.

(b) General liability insurance for damage to property of others may be purchased under the general liability policy where, in the opinion of the contracting officer, the exposure under the contract operations is such as to warrant obtaining the claims and investigating services of the insurance carrier. This form of coverage will be necessary only for contractors engaged in the handling of high explosives or in extra-hazardous research and development activities undertaken in populated areas. Prior approval for purchase of this type of insurance shall be obtained from the head of procuring activity, and limits of $50,000 per accident with an aggregate limit of $100,000 for each year of policy coverage shall be considered adequate. However, where a commingling of op-

erations permits property damage coverage at a nominal cost to the Department of the Army under insurance carried by the contractor in the course of his commercial operations, the participation in such insurance shall be deemed in the best interest of the Government.

(c) Products liability insurance protects the insured for damages to third persons arising out of the consumption, handling, or use of a product. This insurance shall be required only where a contractor under the authority of his contract operates a commissary or other similar facility for dispensing food. Such insurance, when necessary, will be added by endorsement to the general liability policy with limits of $50,000 per person and $100,000 aggregate for each year of policy coverage. Aircraft products liability insurance is set forth in § 599.501–4(c).

(d) Contractual liability insurance protects the contractor against loss arising under assumption of liability by agreement. This insurance is provided by the comprehensive general liability policy where a contractor has assumed liability in writing under any of the following:

(1) A lease of premises,

(2) An easement agreement,

(3) An agreement required by municipal ordinance,

(4) A sidetrack agreement, or

(5) An elevator or escalator maintenance agreement.

The purchase of insurance for other assumed liability may be approved where assumption of such liability by the contractor has been authorized and the head of procuring activity determines that the purchase of such insurance is necessary.

(e) Where the insurance required by this section is purchased for contracts to be performed outside the United States, its possessions, and Puerto Rico, the head of procuring activity is authorized to revise downward the monetary limits prescribed herein.

**§ 599.501–3 Automobile liability insurance.**

Automobile public liability and property damage insurance shall be required with limits of $50,000 per person and $100,000 per accident for bodily injury liability and $5,000 for property damage liability on the comprehensive policy form covering all owned, nonowned, hired, and Government-furnished motor vehicles which will be used in the contract operations where such use will not be limited exclusively to the premises on which the work under the contract is to be performed. When such insurance is purchased for contracts to be performed outside the United States, its possessions, and Puerto Rico, the head of procuring activity is authorized to revise downward the monetary limits prescribed herein.

**§ 599.501–4 Aircraft public and passenger liability insurance.**

(a) Where the contract performance requires the operation, maintenance, or use of aircraft, aircraft liability insurance (including passengers, if the exposure exists) with bodily injury limits of $50,000 per person, $100,000 per accident shall be required. If the operation of an airport is required in connection with the performance of the contract, airport liability insurance with bodily injury limits of $50,000 per person, $100,000 per accident shall be required; property damage coverage shall not be required or approved by the contracting officer without the specific approval of the head of procuring activity concerned. Where the contractor's operations under Department of the Army cost-reimbursement type contracts are commingled with his commercial operations or with his performance under Government fixed-price type contracts, the higher limits normally carried by the contractor may be approved in excess of the limits indicated in this section.

(b) Since the contractor is relieved of liability under the Government property clause in the contract, aircraft hull and aircraft in the open insurance shall not be purchased under cost-reimbursement type contracts for manufacture, modification, or servicing of Government-owned aircraft; however, a contractor may be authorized to purchase this insurance to insure aircraft not owned by the Government but used in connection with performance under the contract.

(c) Aircraft products liability insurance may be authorized in contracts for the manufacture, modification, or repair of aircraft, subject to approval of the terms, limits, and rates by the head of procuring activity concerned. Prior approval of the Assistant Secretary of the Army (Installations and Logistics) is required if reimbursement to, or indemnification of, a contractor on account of liability to third persons for loss or damage to property, death, or bodily injury where the liability arises out of a "products hazard" (as that term is defined in the usual type of aircraft products liability insurance policy) is involved.

**§ 599.502 Self-insurance.**

When there is mandatory insurance coverage prescribed by § 599.501, self-insurance may be approved by the contracting officer, provided that—

(a) The contractor has maintained the practice of self-insurance in respect to such coverage or risk for a period of not less than three years;

(b) Adequate safety inspection and engineering programs are carried on by the contractor;

(c) The contractor has an effective and established policy for claims investigation;

(d) The contractor has established a plan of funding so that the annual cost of "loss payments" remains reasonably constant;

(e) The charges to be made against the contract for the cost of the self-insurance program may reasonably be expected to be less than the charge for an equivalent program of insurance; and

(f) That the Government contracts will share equitably in any release of reserve funds.

Self-insurance programs which do not in all respects meet the foregoing conditions shall be submitted to the addressee in § 590.150(b)(17) of this chapter prior to acceptance by the contracting officer.

**§ 599.503 Government property.**

The Government Property Clause (§ 13.503 of this title) generally relieves the contractor for loss of or damage to Government property in his care, custody, or control and therefore there is no requirement for such coverage except in limited instances (see § 599.303). The loss and salvage organizations referred to in the contract clause (§ 13.503 of this title) will be found listed in the local telephone directory of the larger cities. They are known as "General Adjustment Bureau, Inc.," and "Underwriters Adjusting Company."

**§ 599.503–50 Liability for loss.**

The contractor's relief from liability for loss of or damage to Government property in his care, custody, or control is intended to place the contractor in the same position he would occupy if commercial insurance policies providing broad protection were procured by him against the named perils.

**§ 599.550 Group Insurance Plans.**

(a) Use of group life insurance plans and other forms of insurance provided to employees in order to furnish benefits in the event of death, disability, dismemberment, hospitalization, or surgical or medical care shall be subject to approval by the head of procuring activity in order to insure that greater benefits are not being extended under a cost-reimbursement type contract than are otherwise extended to employees under the contractor's regular commercial operations. When an existing benefit schedule is being increased, such schedule shall also be referred to the head of procuring activity for approval. When a contractor's employees under a cost-reimbursement type contract are covered under the contractor's commercial group life or similar-type insurance policies, provision should be made upon contract completion or termination to insure that any experience refund due will be credited proportionately to the contract account and refunded to the Government.

(b) As relates to the Defense Department Group Term Insurance Rating Plan, see § 599.752.

**§ 599.551 Accident and disability insurance for extra-hazardous occupations.**

Insurance for risks of disability or death due to extra-hazardous occupations of contractor employees is available under Blanket Policy FD–711, Insurance Company of North America. The rate under this blanket policy, effective 1 October 1961, is $1.50 per month per $10,000 per covered employee. Such coverage is available in units of $10,000 per person covered, to a maximum of $50,000 per person. Details of insurance coverage may be obtained from the Insurance Company of North America, 2133 Wisconsin Avenue NW., Washington 7, D.C. Similar coverage may be available from other reputable carriers, but reimbursement to the contractor for the cost of such coverage will not exceed $1.50 per

month per $10,000 unit per covered employee. When the cost of the insurance is an item for reimbursement under a Department of the Army contract, the contractor may procure such insurance at the expense of the Government only with the approval of the contracting officer.

### § 599.552 Insurance carrier.

A contractor performing a cost-reimbursement type contract will select his own insurance carrier. However, such carriers must satisfy the minimum standards set forth below. Deviations from these standards may be made by a head of the procuring activity in the case of a foreign insurance carrier operating outside the United States if the financial responsibility of such carrier has been established.

(a) The carrier must have an unobligated minimum surplus of $350,000.

(b) In the case of a contract for casualty insurance, other than workmen's compensation insurance, the financial responsibility of the insurance carrier must be such that the policy will not expose the carrier in a single accident or occurrence to a loss of more than 10 percent of (1) its total capital stock and surplus, in the case of a fixed-premium carrier, or (2) its net assets in the case of a dividend-paying carrier.

(c) In the case of workmen's compensation insurance, the insurance carrier shall have (1) a total capital and surplus of at least $1,000,000, in the case of a fixed-premium carrier, or (2) at least $1,000,000 of net assets in the case of a dividend-paying carrier.

### § 599.553 Review and approval of contractors' insurance programs.

(a) Affirmative approval of insurance plans, policies, endorsements, rates, and premiums must be given, in accordance with the operating instructions of the procuring activity, when a cost-reimbursement type contract provides for reimbursement of such insurance costs as may be approved or required by the contracting officer. A head of procuring activity may require a change of plan or policy form if the type selected by the contractor is not deemed to be the most advantageous to the Government.

Prior to approval of a contractor's insurance program, the extent of the contractor's cost-reimbursement type contracts with other agencies of the Department of Defense at or adjacent to the proposed location shall be considered. Determination shall be made as to whether insurance pertaining to the contract should be combined with insurance pertaining to the contractor's other Department of Defense contracts to effect savings in reimbursable insurance premium costs. (See § 599.352.) Where the contract operations are at a location at which the work is exclusively or almost exclusively for the Department of Defense, consideration should be given to establishing a special insurance arrangement for all work performed at this location.

(1) The criteria for application of the National Defense Projects Rating Plan is set forth in § 10.703 of this title. Where a location does not qualify for this Plan and the estimated annual premiums are substantial, a commercial retrospective rating plan may be appropriate. If the estimated annual premiums are small, joint insurance with the contractor's commercial operations or special guaranteed cost policies may be advisable.

(2) Where special insurance arrangements are made, the exact coverages and limits required by § 10.501 of this title and § 599.501 shall be provided. The purpose of such an insurance program is not primarily to protect the Government or the contractor against financial loss but is to obtain the experienced services of the insurance industry in such technical areas as claims settlement and safety engineering; therefore, the higher limits of liability insurance normally carried by contractors in their commercial operations are not acceptable. The risk of excessive losses is normally assumed by the Government by the use of the "Insurance Liability to Third Persons" clause (§ 7.203–22 of this title) or a similar clause.

(3) It is the policy of the Department of the Army not to interfere with the contractor's established commercial insurance program. However, where cost-reimbursement type contract operations are commingled with the contractor's commercial operations, all operations should normally be insured together. In such a case, the proportionate share of Department of Defense contracts and the amount of premium involved shall be the governing factors in determining the extent of Government participation in the contractor's program. Unless both of these factors are substantial, review of the contractor's insurance program should be limited to assuring that the contractor complies with the requirements contained in § 10.501 of this title and § 599.501. Higher limits than those prescribed in this subchapter may be approved where joint insurance coverage exists. Particular attention should be given to the time period and any geographical limits of the policies as well as to provisions excluding any phase of contract operations from coverage. Policy endorsements set forth in § 10.302 of this title should be attached to the policies.

(b) The submission by a head of procuring activity to higher authority of a question involving a contractor's insurance program shall include (1) a copy of the related contract, (2) a copy of the contractor's proposed insurance policies, and (3) the recommendations of the procuring activity.

(c) Where contract operations are separately insured under a policy which incorporates a retrospective plan (National Defense Projects Rating Plan, War Department Comprehensive Insurance Rating Plan, or commercial plans, A, B, C, or D), incurred losses and final premium costs will be reviewed at the home office of the insurer prior to payment of the final additional premium or receipt of final return premium. This review will include (1) an examination of closed claims to assure that losses have been properly charged and expenses correctly allocated; (2) an inspection of open claims to negotiate the allowable reserves; and (3) such other matters as the reviewing officer may deem appropriate.

(d) Where more than one Department of the Army procuring activity is involved in approval, negotiation, or review of a contractor's insurance program or policies, to the extent possible coordination shall be effected among the procuring activities involved. When feasible, the procuring activity whose contracts bear the predominant amount of premiums should be responsible for the negotiation or review. However, other arrangements may be made if concurred in by all procuring activities involved.

### § 599.554 Action on termination or completion of contract.

(a) Generally, settlements of cost-reimbursement type contracts will have been completed prior to the required lapse of time for final settlement under any form of retrospective rating plan of insurance. Therefore, where a retrospective plan of insurance is involved, the contracting officer shall take action, at the time of contract settlement, to insure that any appropriate remaining credits due the contractor in connection with the insurance will be paid to the Government and any appropriate outstanding obligations of the contractor with respect to insurance will be assumed by the Government. This action shall be accomplished through execution of one of the two types of assignment form set forth in paragraphs (c) and (d) of this section.

(b) In the event the Government has less than a 100 percent interest in premium refunds or dividends, the assignment will be appropriately modified to reflect the percentage of the Government's interest in premium refunds or dividends and the extent of the Government's assumption of additional premium obligation. Assignments to the Government shall be executed in sufficient copies to serve the purposes of the cognizant procuring activity. After the original and all copies have been executed by the contractor and the Government, the contracting officer shall dispatch them by registered mail, return receipt requested, to the home office of the insurance company involved for signature by an officer of the company. The letter accompanying the forms shall specify that all checks to cover return premiums and dividends are to be made payable to the Treasurer of the United States and forwarded to the contracting officer with advice as to the contract to which it applies.

(c) The form set forth below shall be used in connection with National Defense Projects Rating Plan or War Department Insurance Rating Plan Policies.

ASSIGNMENT TO GOVERNMENT

It is agreed that the return premiums and premium refunds and dividends[1] due or to become due the prime Contractor under the policies to which the _____[2] Rating Plan Endorsement made a part of Policy _____ applies are hereby assigned to and shall be paid to the United States of America, and the prime Contractor directs the company to make such payments to the

Treasurer of the United States acting for and on account of the United States of America.

The United States of America hereby assumes and agrees to fulfill all present and future obligations of the prime Contractor with respect to the payment of the premiums under said policies.

This agreement, upon acceptance by the prime Contractor, the United States of America and the Company shall be effective from _____.

_____
(Name of Insurance Company)

By _____
(Title of official signing)

Accepted

_____
(Date)

UNITED STATES OF AMERICA

By _____
(Authorized Representative)

Accepted

_____
(Date)

By _____
(Prime Contractor)

By _____
(Authorized Representative)

Accepted

_____
(Date)

[1] Omit "and dividends" if non-dividend paying carrier.

[2] Insert title of Rating Plan.

(d) The form set forth below shall be used in connection with insurance policies not issued under the National Defense Projects Rating Plan or War Department Insurance Rating Plan when the Government has assumed the contractor's obligations for further premium payments under the policies.

ASSIGNMENT TO GOVERNMENT

It is agreed that the return premium and dividend [1] due or to become due the insured under Policy No._____ are hereby assigned to and shall be paid to the United States of America, and the Contractor directs the company to make such payments to the Treasurer of the United States acting for and on account of the United States of America.

The United States of America hereby assumes and agrees to fulfill all present and future obligations of the Contractor with respect to the payment of the premiums due under said policy.

This agreement, upon acceptance by the Contractor, the United States of America and the company, shall be effective from_____.

_____
(Name of Insurance Company)

By _____
(Title of official signing)

Accepted

_____
(Date)

UNITED STATES OF AMERICA

By _____
(Authorized Representative)

Accepted

_____
(Date)

_____
(Prime Contractor—Insured)

By _____

Accepted

_____
(Date)

[1] Omit "and dividend," if non-dividend paying company.

## Subpart F—[Reserved]

## Subpart G—Special Casualty Insurance Rating Plans

### § 599.750 Application of National Defense Projects Rating Plan.

(a) The procedures applicable to the operations of this Plan are set forth in detail in Bulletins issued by the Conference Committee on the National Defense Projects Rating Plan, Tenth Floor, 200 East 42d Street, New York 17, New York. The documents required and procedures normally followed are outlined below.

(b) Insurance policies: Each of the affected Workmen's Compensation, Automobile and General Liability policies must contain the prescribed general endorsement for that particular policy. The Workmen's Compensation policy, in addition, must contain the National Defense Projects Rating Plan Endorsement. Additional endorsements may be required, where appropriate. The forms for the required endorsements and various optional endorsements are set forth in Bulletin Number 8 and supplements thereto.

(c) Preliminary settlement exhibits: The Preliminary Settlement Exhibits are submitted annually from six to eight months after the completion of each policy year and after termination of the policy. Samples of these exhibits and instructions for their preparation may be found in Bulletin Number 11.

(d) Premiums: Fifty percent of the "Standard Premium" is usually paid monthly, where the standard premium is established by published rate manuals within the United States and by negotiation outside the United States. Accompanying each preliminary settlement should be a premium refund or a bill for additional premium, dependent upon the cumulative experience of the claims for the project to the date of settlement. A final premium adjustment is made after the final settlement exhibits have been submitted and reviewed (see paragraph (e) of this section).

(e) Assignment to the Government: At the time of completion of the Department of the Army contract(s), all premium refunds, dividends and return premiums are assigned to the Government. The Government also assumes direct liability for any additional premium which may become due. The form of this assignment is found in § 599.554(c).

(f) Final settlement exhibits: Between eighteen and twenty months after termination of the policies, a computation of premium for final settlement purposes is prepared by the insurance company. No return premium should be accepted or additional premium paid until this settlement offer has been reviewed in accordance with § 599.553(c).

(g) Release: After the final review has been completed and the final premium refund or payment made, the insurer will be required to furnish a National Defense Projects Rating Plan Release, the form of which is found in Bulletin Number 9.

(h) It is often advantageous to the Government to combine the insurance for several cost-reimbursement type contracts under one National Defense Projects Ratings Plan project for premium settlement purposes. The contracts involved may have been negotiated by different procuring activities or by the Departments of the Navy and Air Force, in which case §§ 599.352 and 599.553(d) apply. Situations where combinations of contracts may be advisable are where work under several contracts is performed:

(1) At the same location at the same time by different contractors, such as an architect-engineer and a construction contractor;

(2) At the same location at different times by the same or different contractors, such as construction and operation contracts at a Government Owned Contractor Operated plant or aircraft maintenance contracts which are replaced periodically by new contracts; or

(3) At different locations by the same contractor, such as one division of a contractor performing mostly cost-type contracts.

### § 599.751 Insurance advisors.

(a) When the insurance program is administered under the National Defense Projects Rating Plan for contracts within the United States, the contractor may select a licensed insurance agent or broker as insurance advisor to represent him in connection with the insurance coverages under the Plan. If a contractor selects an insurance advisor, the advisor shall submit a statement of his qualifications through the contractor to the contracting officer for approval. The statement should include a description of the experience of the firm or individual, location of the office from which the risk will be serviced, and a list of other Government contracts which the advisor has serviced or is presently servicing. After the individual or firm has been approved by the contracting officer, the contractor may enter into the service agreement in paragraph (b) of this section with his insurance advisor.

(b) Defense Department Insurance Service Agreement:

DEFENSE DEPARTMENT INSURANCE SERVICE AGREEMENT

1. _____
(Name of Advisor)

an individual, a partnership, a corporation organized and existing under the laws of

_____
(Strike out inapplicable designation and/or add appropriate designation)

of _____
(Address of Advisor)

hereinafter called the "Advisor," agree(s), in consideration of a fee to be determined in the manner hereinafter set forth, to render complete insurance advisory service to

_____
(Name of Contractor)

of _____
(Address of Contractor)

Contractor with the United States of America under Contract No. _____ hereinafter called the "Contractor," on all insurance procured under the National Defense Projects Rating Plan with respect to the construction or operation (or both, as the case may be) of _____, located at or near _____, from the effective date of this agreement continuously until approval of final premium audit and of all premiums for such insurance has been made.

2. The Advisor agrees that he will:

*a.* Upon request, assist the Contractor in the selection of an insurance carrier;

*b.* Procure insurance binders and policies and examine to determine that they are correctly written and that the required coverages are provided;

*c.* Assist the Contractor in establishing proper procedure and records for determining payroll classifications and for other units of exposure upon which insurance premiums are based;

*d.* Review and approve all insurance audit statements and premium invoices as to rates and premium extensions;

*e.* Visit the project or location of operations as required by the Contractor or deemed advisable by the Advisor to determine that insurance matters under the National Defense Projects Rating Plan are properly handled;

*f.* Render any other assistance relating to insurance written under the National Defense Projects Rating Plan which the Contractor may require;

*g.* Submit to the Contractor a detailed report of findings and of services performed, during each quarter, and such special reports as may be necessary; and

*h.* Forward to the Contracting Officer the prescribed insurance assignment agreement or agreements executed by the Contractor.

3. The Contractor agrees to pay the Advisor a fee for his services, the amount of which shall be determined by applying the applicable percentages set forth in Column B below to 90 percent of each respective block of standard premium indicated in Column A accruing during the period of this Agreement on policies issued to the Contractor under the National Defense Projects Rating Plan. "Standard Premium" as used herein shall mean the premium for such policies computed on the basis of the manual rules and rates approved by the Defense Department for use in connection with the policies issued to the Contractor under the National Defense Projects Rating Plan.

FEE SCHEDULE ON INSURANCE SERVICE AGREEMENTT

| A<br>Standard premium | B<br>Percent | C<br>Fees | D<br>Cumulative standard premium | E<br>Cumulative fees |
|---|---|---|---|---|
| First 10,000 | @7½ | 675 | (10,000) | 675 |
| Next 40,000 | @4 | 1,440 | (50,000) | 2,115 |
| Next 50,000 | @2 | 900 | (100,000) | 3,015 |
| Next 150,000 | @1 | 1,350 | (250,000) | 4,365 |
| Next 750,000 | @ ½ | 3,375 | (1,000,000) | 7,740 |
| Next 1,000,000 | @ ½ | 4,500 | (2,000,000) | 12,240 |
| Next 1,000,000 | @ ¼ | 2,250 | (3,000,000) | 14,490 |
| Next 1,000,000 | @ ¼ | 2,250 | (4,000,000) | 16,740 |

A—Standard premium blocks.
B—Percent applicable to 90 percent of each respective block of standard premiums.
C—Fees by blocks.
D—Cumulative standard premiums.
E—Cumulative fees on respective cumulative standard premiums.

4. The Advisor shall submit quarterly a statement of the aggregate earned standard premium and the aggregate earned Advisor's fee, less the amount of all fees previously earned. If, however, this agreement supersedes a previous insurance service agreement or agreements, the Advisor shall submit quarterly a statement of (a) the aggregate standard premium earned during the term of all agreements; (b) the aggregate standard premium earned during the term of all previous agreements; and (c) the fee earned during the term of this agreement less all fees previously earned under this agreement. The fee earned under this agreement shall be computed by applying the basis of computation as set forth in this agreement to the aggregate standard premium earned during the term of all agreements, and deducting from the total fee thus computed, the portion thereof applicable to the aggregate standard premium earned during the term of all previous agreements. Upon approval by the Contractor of each such quarterly statement, the Advisor shall be paid the earned fee. A final statement shall be submitted by the Advisor upon receipt of final audit statements from the insurance carrier and final settlement of the Advisor's fee shall be made as soon as practicable thereafter.

5. The Advisor agrees that he will neither accept employment by nor any remuneration directly or indirectly from the insurance carrier for services rendered in connection with the insurance written under the National Defense Projects Rating Plan covering operations under the contract referred to in paragraph 1 hereof.

6. This agreement may be terminated by either of the parties hereto upon notice in writing mailed to the other party stating when, not less than ten days thereafter, such termination shall be effective. Delivery of such notice shall be equivalent to mailing. In the event of termination a copy of such notice shall be immediately mailed to

---

(Contracting Officer)

---

(Address)

If this Agreement is terminated as herein provided, the Advisor's fee shall be computed in the manner provided herein on the standard premium accrued to the effective date of termination.

This Agreement, executed this _____ day of _____, 19__, shall be effective and binding on the undersigned from and after _____.

---

(Insurance Advisor)

By _____

Title _____

Attest:

---

Title _____

(Affix corporate seal)

Witnesses as to Advisor:

---

(Name)

---

(Address)

---

(Name)

---

(Address)

---

(Contractor)

By _____

Title _____

Attest:

---

Title _____

(Affix corporate seal)

Witnesses as to Contractor:

---

(Name)

---

(Address)

---

(Name)

---

(Address)

Approved:

---

---

(Contracting Officer)

NOTE: If a corporation, signature should be attested by a corporate officer and corporate seal affixed. In all other cases two witnesses are required.

(c) Insurance Advisor's Quarterly Statement of Earned Fee: The insurance advisor shall bill the contractor each quarter for his fee in accordance with the schedule of percentages outlined in the insurance service agreement. The following format shall be used in the preparation of the fee statement:

INSURANCE ADVISOR'S QUARTERLY STATEMENT OF EARNED FEE

Advisor _____
Address _____

Date _____
Contractor _____
Contract No. _____
Project _____
Location _____
Insurance Carrier _____
Policy period: From _____
To _____
Effective date of insurance service agreement _____

*Aggregate earned standard premium*

Period _____ to _____
Workmen's Compensation and O.D. Policy _____ $_____
Comprehensive Public Liability Policy _____ $_____
Comprehensive Auto Liability Policy _____ $_____

Total _____ $_____

(d) Insurance Advisor's Quarterly Report of Services Rendered: Each quarter the insurance advisor shall submit a written report to the contractor stating services rendered during the period.

The following outline shall be followed in preparing the report:

(The Insurance Advisor's Quarterly Report of Services Rendered should follow the following topical outline and should be complete, clear and concise.)

INSURANCE ADVISOR'S QUARTERLY REPORT OF SERVICES RENDERED

Period _____ to _____

1. Insurance Placed and Policies Procured.
2. Policies, Binders, Endorsements, etc., Examined—Conditions Found and Action Taken.
3. Rating Procedures and Records Established.
4. Audit Statements and Premium Invoices Reviewed—Conditions Found and Action Taken.
5. Other Data Procured From Carriers—Comments.
6. Visits to Projects.
(a) Date.
(b) Report of Safety Engineering Service and Facilities.
(c) Report of Claim Service and Facilities.
(d) Report of Hospital and Medical Service and Facilities.
(e) Other Visits—Date, Purpose and Results.
7. Other Services Rendered.
8. Recommendations: (List and Be Specific).

---

(Insurance Advisor)

By _____

Title _____

### § 599.752 Defense Department Group Term Insurance Plan.

The Defense Department Group Term Insurance Plan is available for use in connection with the purchase of group insurance coverages for employees of a cost-reimbursement type contractor. The Commanding General, U.S. Army Materiel Command is responsible for the operation of this plan within the Department of the Army. Coordination shall be effected therewith prior to the approval of the use of this plan by any procuring activity. A contractor is

eligible for the Defense Department Group Term Insurance Plan only if the number of covered employees is 500 or more, and (a) the contractor is wholly engaged in operations under eligible contracts; or (b) ninety percent or more of the payroll of the contractor's operations to be insured under the Plan arise under eligible contracts.

## PART 600—TAXES

14. The heading of Part 600 is changed as set forth above, and the remainder of the part is revised to read as follows:

Sec.
600.000 Resolution of the tax problem.
600.050 Implementation of part.
600.502–1 Use of Standard Form 1094.
600.502–2 Persons authorized to furnish evidence of exemption.

AUTHORITY: §§ 600.000 to 600.502–2 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

### § 600.000 Resolution of the tax problem.

Actual or anticipated tax problems which cannot readily be solved by reference to Part 11 of this title shall be forwarded, through channels, to The Judge Advocate General, Department of the Army, Washington, D.C., 20310, Attn: Chief, Procurement Law Division. Direct communication with The Judge Advocate General is authorized if the time by which a solution to a tax problem is required is so short that communication through channels would be clearly inadequate. In this case, copies of the reference and copies of the reply of The Judge Advocate General will be dispatched through normal channels. Tax problems forwarded to The Judge Advocate General shall be accompanied by—

(a) A comprehensive statement of pertinent facts, including documents and correspondence,

(b) A copy of the contract or pertinent portions thereof,

(c) A review of the legal and factual issues involved, and recommendations on action to be taken,

(d) If appropriate, a statement of the effect of the tax problem on procurement polices and procedures, and

(e) The comments and recommendations of each successive echelon of command through which the correspondence passes.

### § 600.050 Implementation of part.

No directives, regulations, instructions, or procedures concerning Federal, State, or local taxes in relation to Army procurement functions shall be published by any agency, command, or office of the Department of the Army without prior approval of the Assistant Secretary of the Army (Installations and Logistics).

### § 600.502–1 Use of Standard Form 1094.

(a) *General.* Unless a different type of evidence of exemption is required by the taxing jurisdiction, SF 1094 shall be used where exemptions, adjustment, or refunds of State and local taxes are allowed on commodities or services purchased for the exclusive use of the United States.

(b) *Tax Inclusive Purchases.*

(1) When a State or local tax attaches at the time of sale to the United States and the legal incidence of the tax appears to be on the United States, if the vendor refuses to sell at a price exclusive of the tax, SF 1094 shall be used to obtain a record of the transaction for use by the United States Government in billing the taxing authority for refund of the tax.

(2) SF 1094 shall be executed and delivered to the disbursing officer to whose accounts the vouchers in the transaction pertain. The certificate of the vendor should be obtained on each SF 1094 or receipt issued for the transaction. The voucher number of the payment voucher shall be noted on the SF 1094 and the serial number of the SF 1094 shall be shown on the payment voucher.

(3) The SF 1094 shall be forwarded through channels to the Finance and Accounts Office, U.S. Army, Washington 25, D.C., ATTN: Accounting Branch, which shall bill the State or local taxing authority for refund of the tax paid. The amount collected shall be credited to the appropriation from which the voucher was paid, or, if the appropriation cannot be readily identified, to "Account 213099—Miscellaneous recoveries and refunds, not otherwise classified."

(4) If the Finance and Accounts Office is unable to obtain a refund of the tax, it shall refer the matter to The Judge Advocate General pursuant to § 600.000, for determination whether it is appropriate to forward the file to the General Accounting Office for collection.

### § 600.502–2 Persons authorized to furnish evidence of exemption.

Each Head of Procuring Activity concerned, and contracting officers and their representatives, are authorized to furnish evidence of exemption from taxes.

## PART 601—LABOR

15. Section 601.101 is revised; paragraph (d) of § 601.102–2 is revised; and new subparagraph (5) is added to § 601.102–4(b), as follows:

### § 601.101 Labor relations.

(a) *Assistance.* All problems arising out of the labor relations of Government contractors vitally affect procurement and are an essential part of procurement responsibility. Heads of procuring activities are encouraged to seek the assistance of the Labor Advisor in the disposition of these problems.

(b) *Labor responsibility.* (1) Representatives of heads of procuring activities and subordinate headquarters shall refrain from formal or informal contacts with national offices of labor organizations or Department headquarters of Governmental organizations in connection with labor matters without prior authorization from the Labor Advisor. In case of emergency, such authorization may be obtained by telephone.

(2) Subject to the restrictions in subdivisions (i) and (ii) of this subparagraph, a head of procuring activity, or his representative, is authorized to communicate with local labor organizations and local offices of Federal agencies in connection with labor matters of concern to a particular activity, but no action which is not mutually acceptable to the head of procuring activity and the local organization shall be taken until the matter has been coordinated with the Labor Advisor.

(i) Inquiries to the Federal Mediation and Conciliation Service for information regarding the status of mediation proceedings, the nature of the dispute, and related matters shall be directed only to a regional office of that agency.

(ii) Department of the Army representatives will not volunteer information to or answer requests from representatives of labor, management, or Federal agencies relevant to work stoppages or disputes without prior clearance from the Labor Advisor. When necessary such clearance may be obtained by telephone or other informal means and written confirmation of all informally reported facts shall be made as soon as possible thereafter.

(iii) In order to insure that the Assistant Secretary of the Army (Installations and Logistics) is fully and expeditiously informed of all labor relations matters pertaining to departmental procurement, it is essential that such matters be coordinated at Department of the Army level. Therefore, in the event requests for information relevant to labor matters are submitted by national officers of labor organizations or Government organizations, including other military departments, to representatives of procuring activities, such representatives shall promptly notify the Labor Advisor. Moreover, any reply which may be required will be transmitted through appropriate procurement channels.

(c) *Reports.* (1) Each labor dispute, work stoppage, or threatened work stoppage on any Army contract shall be reported by the contracting officer.

(2) The report, entitled "Labor Disputes or Work Stoppages (Actual or Threatened)" (Reports Control Symbol SAOAS–40), shall include the following information—

(i) Name and location of Army installation, contractor facility, or project involved;

(ii) Names of prime contractor and subcontractors; names, addresses, and telephone numbers of contractor personnel contacted;

(iii) Items being produced or project being constructed;

(iv) Type of contract and contract number;

(v) Effect on production or construction to include quantity of items or progress of construction involved;

(vi) Date and time of work stoppage;

(vii) Classification of labor involved;

(viii) Name, local number, address, and telephone number of local union involved; names, addresses, and telephone numbers of local union officials and results of any contacts with same;

(ix) Cause of dispute and issues involved;

(x) Action contemplated by contractor or recommendations as to action which might be taken;

(xi) Actual or estimated number of workers directly or indirectly involved, classification, and total number of workers employed at location of dispute;

(xii) Whether picket line has been established;

(xiii) Forecast of duration of strike; and

(xiv) Availability of end items, component parts, and/or materials, including—

(*a*) Stocks in hands of procurement activities or receiving agencies;

(*b*) Quantity of affected material on hand at construction or manufacturing site; and

(*c*) The existence or nonexistence of alternate sources of items, parts, or materials, together with factors involved in utilizing these sources, including timing, price, quality, and suitability of the product;

(*d*) A statement of the degree and extent of importance to the Department of the Army of the delay occasioned by the work stoppage, including such factors as the effect upon research and development programs, defense stocks, critical construction, increased costs of procurement, and program delays;

(*e*) Additional pertinent information including, when applicable, the effect on care and maintenance of Government-furnished equipment or materiel.

(3) When all of the information required by subparagraph (2) of this paragraph is not immediately available, the report shall be prepared and forwarded with the information at hand. Failure to include in the initial report any of the required items shall be explained. Additional information, any changes to the information furnished, and information on all developments in the matter shall be promptly forwarded.

(4) Three copies of each report prepared pursuant to this paragraph shall be forwarded to the addressee listed in § 590.150(b)(1) of this chapter; two of the copies shall be marked "ATTN: Labor Advisor" and one shall be marked "ATTN: Chief, Industrial Division, ODCSLOG." One of the copies marked for the Labor Advisor shall be dispatched immediately by the contracting officer to the ultimate addressee by the most expeditious means. Each successive echelon in the procurement channel shall attach its pertinent comments and recommendations to the other two copies of the report and promptly forward them. (See § 590.150(a) of this chapter.)

(5) In situations of extreme urgency contracting officers shall make initial and supplemental reports by telephone or other informal means to the Labor Advisor. In all such cases the information informally submitted shall be confirmed in writing as soon as possible thereafter. Further, in situations where possible serious impact may ensue, direct communication is authorized between procuring activity representatives and the Labor Advisor.

(d) *Request from union representatives to enter Department of the Army installations.* Whenever labor representatives request permission to enter Department of the Army installations on which private contractor employees are engaged in contract work, to conduct union business during working hours in connection with the contract between the Government and the contractor on which union members are employed, the commanding officer may admit such representatives: *Provided:* (1) The presence and activities of the labor representatives will not interfere with the progress of the contract work involved, and (2) the entry of such representatives to the installation will not violate pertinent safety or security regulations. Labor representatives are not authorized to engage in organizing activities, collective bargaining discussions or other matters not directly connected with the Government contract, on military installations. The determination as to who is an appropriate labor representative should be made by the commanding officer on recommendation of his labor advisor after consultation with local union officials. Business offices or desk space for labor organizations for solicitation of membership, collection of dues, or other business of the labor organization, not directly connected with the contract work, shall not be permitted on the installation, except for the routine functions of the working steward whose union duties are incidental to his assigned job. In the event that a commanding officer of an installation or a contracting officer denies entry to a labor representative for any reason, such officer shall notify the Labor Advisor. Such notification shall include the reasons for denial, including names and addresses of representatives denied entry and union affiliation of such representatives if known (exempt report, par. 39*o*, AR 335–15).

(e) *Applicability.* Section 12.101 of this title and this section are applicable only within the United States and its possessions.

**§ 601.102–2 Policy.**

* * * * *

(d) When two or more purchasing offices, representing one or more procuring activities within the Department of the Army, have contracts with a contractor who must perform overtime or shift premium work in order to meet military requirements, one purchasing office will be designated to provide the Department of the Army representative, who will coordinate and administer the approval of the overtime and shift premium work for all such contracts. The purchasing offices concerned should exert every effort locally to reach agreement on a representative. Normally that purchasing office having the preponderance of work with the contractor should provide the representative. The Commanding General, the Deputy Commanding General or the Director of Procurement and Production, U.S. Army Materiel Command, are authorized to designate a representative to act when two or more Army contracting activities, one of which is a U.S. Army Materiel Command activity, cannot agree on overtime and shift premiums. When a U.S. Army Materiel Command activity is not involved, the disagreement shall be referred to the addressee in § 590.150(b)(6) of this chapter.

**§ 601.102–4 Approvals.**

* * * * *

(b) In the United States Army Materiel Command:

* * * * *

(5) Director of Research and Development.

* * * * *

## PART 602—GOVERNMENT PROPERTY

16. Part 602 is revised to read as follows:

**Subpart A—General**

Sec.
602.102–3 Facilities.

**Subpart B—[Reserved]**

**Subpart C—[Reserved]**

**Subpart D—Industrial Facilities**

602.450 Contractor-operated motor vehicles.

**Subpart E—Contract Clauses**

602.502 Government-furnished property clause for fixed-price contracts.
602.502–51 Liability for Government property furnished for repair or other services.
602.503 Government property clause for cost-reimbursement type contracts.
602.504 Special tooling clause for fixed-price contracts.
602.550 Government-furnished property (short form).

**Subpart F—[Reserved]**

**Subpart G—Use of Government-Owned Industrial Facilities and Special Tooling on Work for Foreign Governments**

**Subparts H–N—[Reserved]**

602.702 Use without charge.

**Subpart O—Sale, Loan, Gift of Property**

602.1501 Sale of uniforms, safety items, and unserviceable ammunition components.
602.1502 Sale, loan, or gift of certain property (10 U.S.C. 4506).
602.1503 Loan of equipment—research and development.

**Subpart P—Audit of Industrial Property Records**

602.1601 Responsibility for audits.
602.1602 Reports of audit.
602.1603 Records in unsatisfactory condition.

**Subpart Q—Manuals for Control of Government Property in Possession of Contractors**

602.1700 General.
602.1701 Definitions [B–103].
602.1701–1 Special tooling.
602.1701–2 Custodial records.
602.1702 Duties and responsibilities of the contract administrator.
602.1703 Designation of property administrator.
602.1704 Property administration interchange agreements.
602.1705 Duties and responsibilities of the property administrator.

Sec.
602.1706 Sources from which Government property may be furnished or acquired [B and C–205].
602.1706–1 Military installations or other contractor's plants.
602.1706–2 Direct purchase by the contractor.
602.1707 Segregation or commingling of Government property and contractor's property.
602.1708 General.
602.1708–1 Accounting for items bearing registration numbers.
602.1708–2 Exceptions.
602.1709 Contractor's property control records.
602.1710 Pricing.
602.1711 Records to be maintained by Government personnel [B–303 and C–313].
602.1711–1 Records of specific contracts where property is involved.
602.1712 Records to be maintained by the contractor [B–304 and C–207].
602.1712–1 Records of material—custodial records.
602.1712–2 Records of plant equipment.
602.1712–3 Records of real property.
602.1712–4 Records of scrap.
602.1712–5 Financial control accounts.
602.1713 Numbering property accounts.
602.1714 Identification of Government property.
602.1714–1 Identification marking of Government property.
602.1715 Contractor's responsibility and liability [B–402, C–303 and C–304].
602.1715–1 Contractor liability.
602.1715–2 Shipment and receipt of Government-furnished property.
602.1716 Selective examinations of contractor records and property.
602.1717 Transfers of property accounts between property administrators.
602.1718 Transfer of property from military to contractor (industrial) property accounts.

AUTHORITY: §§ 602.102–3 to 602.1718 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

## Subpart A—General

### § 602.102–3 Facilities.

(a) Requests for secretarial approvals required in relation to providing industrial facilities shall accompany determinations and findings in connection with negotiations contemplating the use of §§ 3.211 through 3.216 of this title, where possible.

(b) Determinations to provide industrial facilities having an acquisition cost of less than $1,000,000 and which are part of the Government inventory may be made by a head of procuring activity or his designee.

(c) Determination to provide industrial facilities involving an expenditure of less than $1,000,000 may be made by a head of procuring activity, his deputy, or principal assistant for procurement.

## Subpart B—[Reserved]

## Subpart C—[Reserved]

## Subpart D—Industrial Facilities

### § 602.450 Contractor-operated motor vehicles.

(a) Certain Government installations are operated by private contractors who are given full operating control of the plant facilities, including vehicles, by the terms of their contracts with the Government. Vehicles which are thus operated by private contractors, but are owned by the Government, are classed as "Contractor Vehicles," in order to distinguish them from "Military Vehicles." The operation, maintenance, supply, and control of contractor vehicles are, by provisions of contract, in the hands of the private contractor, and fall within the category of Government-furnished property. The term "contractor vehicle" as used herein is defined as any vehicle supplied under written contract to contractors for use at class II contractor-operated installations and other Government-owned Department of the Army controlled industrial facilities, or contractor-owned facilities under contract with the Department of the Army.

(b) It is the basic policy of the Department of the Army, that contractors shall, to the greatest extent practicable, procure their vehicles, fuels, lubricants, tires, and repair items in the open market. See paragraph 504, AR 58–1. When motor vehicles, except materials handling equipment, are procured by a contractor for the account of the Government, application for proper registration number will be made through the contracting officer to the addressee in paragraph 601*a*, AR 58–1. (For registration of materials handling equipment, see AR 700–3900–5.) When necessary, Department of the Army items may be reclassified and supplied as Government-furnished property. Prior to the negotiation of contracts or amendments thereto, contracting officers shall ascertain through command channels, the probable availability of the necessary vehicles within the Department of the Army. Request for the furnishing of any items listed in this section shall be made by the contracting officer, through channels, to the appropriate supply source. Nothing in this section shall preclude a contractor from being reimbursed for such items which he may procure when properly allocable to the contract.

(c) When a standby-industrial installation is reactivated and operated by a contractor under a contract, the terms of which require and authorize the furnishing of vehicles by the Government, the procuring activity concerned shall transfer such vehicles as are on hand at the installation which are determined as suitable for the functions to be performed by the contractor. Vehicles transferred shall be reclassified as contractor vehicles and transferred to the contract account as Government-furnished property. Vehicles which are not authorized under the terms of the contract or are not suitable for use thereunder shall be declared excess to the needs of the installation and returned to appropriate supply channels.

(d) When an industrial installation is placed in a standby status, the owning procuring activity shall determine which vehicles at the installation are necessary to its operational activities and consequently should not be removed or replaced. The disposition of all other vehicles shall be made in the following order: (1) Those required by the procuring activity concerned for use in the maintenance of the installation, (2) those required by the owning procuring activity for use in the performance of other contracts, (3) those to be returned to appropriate supply channels. Vehicles which have been determined by the procuring activity concerned as suitable for the purpose of maintaining the installation in a standby status shall be reclassified as military vehicles and transferred to the appropriate account. Vehicles which the owning procuring activity requires for use in the performance of other contracts shall be transferred to such contract accounts if authorized by the terms thereof. All remaining vehicles shall be turned in to appropriate supply channels.

(e) Contractor-operated vehicles utilized outside the confines of a contractor-operated installation shall bear United States Government license plates. Requests for United States Government license plates shall be submitted in accordance with AR 746–2300–1 or AR 58–1.

(f) Statutory restrictions limiting the use of Government-owned vehicles to official business are applicable to contractor vehicles. Information governing the use of such vehicles under Department of the Army control is contained in AR 58–1.

## Subpart E—Contract Clauses

### § 602.502 Government-furnished property clause for fixed-price contracts.

The clause in § 13.502 of this title shall be used in construction contracts under which the Department of the Army is to furnish material, special tooling, or such industrial facilities as authorized under § 13.402(b) of this title, to the contractor.

### § 602.502–51 Liability for Government property furnished for repair or other services.

Subject to the following instruction, insert the clause set forth below in contracts for repair or other servicing (e.g., laundering, cleaning, dyeing) of Government property when such property is furnished to the contractor for that purpose: *Provided, however,* That this clause shall not be used when the Ground and Flight clause (§ 10.404 of this title) is required. If either a substantial quantity of parts or materials will be furnished to the contractor, or a significant amount of scrap will result from the repair or servicing, the contract shall also contain the appropriate "Government Furnished Property" clause (Part 13 of this title), and the schedule of the contract shall provide that such parts, material and scrap shall be governed by the terms of that clause. When minor repairs are obtained under small purchase procedures (§ 3.600 of this title) the provisions of this section shall not apply (see § 602.1708–2). A contracting officer shall not require additional insurance under the clause unless the circumstances clearly indicate advantages to the Government which justify a departure from the general policy expressed in § 599.303 of this chapter.

LIABILITY FOR GOVERNMENT PROPERTY FURNISHED FOR REPAIR OR OTHER SERVICES (MAY 63)

(a) The provisions of this clause shall govern with respect to any Government property turned over to the contractor to be repaired or to have services performed on it (referred to in this clause as "Government property furnished for servicing," and such property shall not be considered "Government furnished property" within the meaning of any clause of the contract entitled "Government Furnished Property." The contractor shall maintain adequate records and procedures to insure that Government property furnished for servicing may be readily accounted for and identified at all times while in his custody or possession or the custody or possession of any subcontractor.

(b) The Contractor shall be liable for any loss or destruction of or damage to the Government property furnished for servicing caused by the Contractor's failure to exercise such care and diligence as a reasonably prudent owner of similar property would exercise under similar circumstances. The Contractor shall not be liable for loss or destruction of, or damage to, Government property furnished for servicing resulting from any other cause except to the extent that such loss, destruction, or damage is covered by insurance (including self-insurance funds or reserves).

(c) In addition to any insurance (including self-insurance funds or reserves), affording protection in whole or in part against loss or destruction of, or damage to, such Government property carried by the contractor on the date of this contract, the amount and coverage of which the contractor hereby agrees to maintain, the contractor agrees to obtain such additional insurance covering loss or destruction of or damage to Government property furnished to the contractor for servicing as may, from time to time, be required by the Contracting Officer. The requirement for such additional insurance shall be effected under procedures established by the Changes Clause of this contract.

(d) The Contractor shall hold the Government harmless and shall indemnify the Government against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the Government property furnished for servicing or arising from the presence of said property on the premises or property of the Contractor.

### § 602.503 Government property clause for cost-reimbursement type contracts.

The clause in § 13.503 of this title shall be used in construction contracts under which the Department of the Army is to furnish material, special tooling, or such industrial facilities as is authorized under § 13.402 of this title, to the contractor.

### § 602.504 Special tooling clause for fixed-price contracts.

The clause in § 13.504 of this title shall be used in construction contracts in accordance with § 13.302(b) of this title.

### § 602.550 Government-furnished property (short form).

The following clause shall be used in fixed-price contracts (including construction contracts) where the Department of the Army will furnish the contractor material, special tooling or industrial facilities, the total value of which will not exceed $1,000:

GOVERNMENT-FURNISHED PROPERTY (SHORT FORM)

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described in the Schedule or specifications (hereinafter referred to as "Government-furnished property").

(b) Title to the Government-furnished property shall remain in the Government. The Contractor shall maintain adequate property control records of Government-furnished property in accordance with the requirements of the "Manual for the Control of Government Property in the Possession of Contractors" (Appendix B, Armed Services Procurement Regulation) as in effect on the date of this contract, which Manual is hereby incorporated by reference and made a part of this contract.

(c) Unless otherwise provided in this contract, the Contractor, upon delivery to it of any Government-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this contract.

## Subpart F—[Reserved]

## Subpart G—Use of Government-Owned Industrial Facilities and Special Tooling on Work for Foreign Governments

### § 602.702 Use without charge.

Each head of procuring activity and his deputy or his principal assistant for procurement are authorized on behalf of the Secretary to approve requests for use of industrial facilities and special tooling without charge under the provisions of § 13.702 of this title.

## Subparts H–N [Reserved]

## Subpart O—Sale, Loan, Gift of Property

### § 602.1501 Sale of uniforms, safety items, and unserviceable ammunition components.

(a) Each head of procuring activity is authorized to approve, and to redelegate to a principal assistant the authority to approve, contracts for—

(1) The sale of uniforms, safety clothing, safety equipment, and other such special safety and protective articles to contractors under military contracts, to employees of such contractors, and to Government employees, at prices determined in accordance with applicable pricing regulations; and

(2) The sale of Government-owned unserviceable ammunition components, or scrap generated in the production of ammunition components, to selected metal processors at current market prices and on condition that quantities of raw materials equivalent to that processed from the unserviceable components be made available by them to Army contractors participating in approved ammunition programs.

(b) A contract, or amendment or modification thereof, shall be entered into under paragraph (a)(1) of this section only upon a written finding that the sale is made in connection with and will facilitate or expedite performance of a specific contract or work order for military procurement.

(c) The authority set forth in paragraph (a) of this section does not apply to the sale of property subject to priorities or allocation under the Defense Production Act, except where such sale is authorized under that Act or applicable regulations or orders thereunder.

(d) A contract, or amendment or modification thereof, shall be entered into under this section only if (1) the approving authority (i) finds that the action will facilitate the national defense, (ii) deems that other legal authority in the Department to accomplish the sale is lacking or inadequate, and (iii) deems that the use of the authority herein delegated is necessary and appropriate under all the circumstances; and (2) the contract is made under the authority cited in Part 17 of this title and the requirements of Subpart C, Part 17 of this title, are otherwise met.

### § 602.1502 Sale, loan, or gift of certain property (10 U.S.C. 4506).

(a) Each head of procuring activity is authorized to sell, lend, or give such samples, drawings, and manufacturing or other information as he considers best for the national defense to any contractor for Army supplies under approved production plans, and to any person likely to manufacture or supply Army supplies under such plans.

(b) Such samples, drawings and information shall be sold, loaned, or given by appropriate written agreement.

(c) As a general rule classified material will not be sold or given pursuant to this paragraph. In determining whether to sell or give any property the contracting officer should consider (1) the current or probable future need of the Government for the property, (2) the residual value of the property, (3) expenses incident to handling and storage of the property, and (4) the probable cost of reproduction of the property in the event of future procurement.

### § 602.1503 Loan of equipment—research and development.

A head of procuring activity may authorize the loan of Government property acquired for research and development to a private industrial firm or educational institution for use in privately financed research and development programs; provided that (a) such programs are of interest to the Government, (b) the results of the research will be furnished to the Government without additional cost, and (c) the loan shall be reflected in a written agreement which sets forth the terms of the loan and the benefits to be derived by the Government.

## Subpart P—Audit of Industrial Property Records

### § 602.1601 Responsibility for audits.

Government and contractor-maintained records pertaining to Government property in possession of contractors are subject to audit by the United States Army Audit Agency in accordance with AR 36–5.

**§ 602.1602 Reports of audit.**

(a) Audit findings and recommendations pertaining to the administration of Government property in possession of contractors will be reported in the internal audit report covering the audit of the activity administering the contracts involved. A head of procuring activity shall establish such controls and procedures as are necessary to insure that deficiencies recorded in reports of audit are corrected and that due consideration is given to any recommendation contained in the reports.

(b) Informal advisory reports of the results of audit of contractors' property records shall be furnished the activity from time to time. Such reports may be in the form of separate letter reports or by comments contained in advisory audit reports pertaining to system surveys or to individual contracts. Unless specifically requested no reply to such report is required. The action taken on such reports shall be reviewed by the United States Army Audit Agency, and reported in the activity internal audit report.

**§ 602.1603 Records in unsatisfactory condition.**

(a) If the Government or contractor-maintained records of Government property in possession of contractors are in such condition that the status of Government property cannot be ascertained without undue expenditure of time, a special report shall be submitted by the United States Army Audit Agency through the addressee in § 590.150(b)(6) of this chapter to the head of procuring activity with an information copy to The Inspector General, Department of the Army, Washington, D.C., 20310.

(b) Upon receipt of the report, the head of procuring activity shall direct the activity commander to take the necessary corrective action and shall maintain a close followup to insure that such action is taken promptly. The head of procuring activity is responsible for insuring that the District Manager, United States Army Audit Agency, is notified when corrective action has been taken.

(c) If the circumstances are such as to justify a waiver of accounting requirements, the case shall be prepared and submitted in accordance with AR 735–79.

## Subpart Q—Manuals for Control of Government Property in Possession of Contractors

**§ 602.1700 General.**

(a) This subpart implements §§ 30.2 and 30.3 of this title. It provides a single, detailed, uniform industrial property accounting procedure for use throughout the Department of the Army to enable contracting officers and property administrators to perform effectively the functions assigned to them without undue or inconsistent demands being placed on the accounting and control systems of contractors. Throughout this subpart the letters "B" and "C" followed by a number have been used to refer to specific paragraphs in §§ 30.2 and 30.3 of this title.

(b) It is recognized that local situations may in certain instances demand accounting for Government property by methods which differ from the instructions in this subpart. Where it can clearly be shown that such different accounting methods adequately and fully protect the interest of the Government and do not place undue burden on the contractor, a request for approval to deviate from these instructions should be submitted in accordance with § 590.109 of this chapter and AR 735–79 to the addressee in § 590.150(b)(8) of this chapter.

**§ 602.1701 Definitions [B–103].**

**§ 602.1701–1 Special tooling.**

Special tooling may be classified for accounting purposes into three categories:

(a) The Government-furnished category embraces special tooling to which the Government has title. Accounting shall be in accordance with paragraph B–304.2, except where the contract or purchase order does not exceed $5,000 (§ 602.1708–2(c)).

(b) The end-item category includes special tooling produced by the contractor as an end item under the contract. Initial accounting shall be as specified for end items in § 30.2 of this title.

(c) Title to special tooling manufactured or acquired by a contractor under the provision of § 13.504 of this title is vested in the Government only if an option to acquire the special tooling is exercised at the time of contract completion or termination. Accounting and control of use prior to taking title to the property requires assurance that the contractor observes "normal industrial practice" in his use of and accounting for the property (see paragraph (h) of the clause in § 13.504 of this title). After title has been assumed by the Government, accounting shall be in accordance with B–304.2. [B–103.14]

**§ 602.1701–2 Custodial records.**

These are memoranda of any description or type used for the purpose of accounting for items issued to plant employees from sources such as tool cribs, tool rooms, or stock rooms (e.g. requisitions, issue slips, receipts, tool receipts, tool checks, stock record books). [B–304.1(c)]

**§ 602.1702 Duties and responsibilities of the contract administrator.**

Where a single property administrator, other than a Department of the Army property administrator, has been designated under B and C–202(b) for all Department of Defense contracts at one contractor location, the contracting officer or his designated representative for property matters is responsible for the additional duties prescribed in § 602.1704. [B and C–201]

**§ 602.1703 Designation of Property Administrator.**

(a) A property administrator shall be designated for each Department of the Army contract involving Government property. The property administrator shall serve as an authorized representative of the contracting officer and shall be designated as prescribed in § 590.451 of this chapter. Normally, neither the contracting officer nor the contract administrator shall be assigned the additional duty of property administration; in unusual circumstances, however, such assignment may be approved by a head of procuring activity or a member of his immediate staff authorized by him to make such assignments.

(b) In appropriate cases where a post, camp or station supply officer is assigned responsibility for property administration as an additional duty, he shall become familiar with industrial property control policies and procedures contained in subchapter A, chapter I of this title and this subchapter, and as part of the contracting officer's staff shall devote the necessary time to industrial property matters.

(c) The property administrator for a prime contract is responsible for maintaining the control records required in connection with all related subcontracts under which Government property has been provided to the subcontractor, unless separate property administrators have been specifically designated for subcontracts.

(d) The designation of more than one property administrator for a particular contract or for a particular subcontract may be authorized by the chief of the purchasing office if special property accounting problems are involved (e.g., plants located in territories of more than one procurement district).

(e) In order to minimize travel requirements and to utilize to the maximum extent possible other Government personnel (such as inspectors, engineers, etc.) located at a contractor's plant or located in the same geographical area, it may be necessary either to appoint an assistant property administrator or to designate such other Government personnel located at the installation or plant to perform certain functions for the property administrator. Such appointments are subject to the following limitations:

(1) An assistant property administrator acts in his own name and maintains records required by § 30.2 of this title independent of the property administrator, except that he shall be subject to the property administrator's policy and general procedural direction. The assistant is an authorized representative of the contracting officer and must be so designated in writing by the contracting officer (§ 590.451 of this chapter).

(2) Installation personnel may be designated by the property administrator to perform specific duties in his name (e.g., signing vouchers, making and preparing report of selective checks). The signature of such designated personnel must be signed, "For the Property Administrator by—John Doe (Title)". [B and C–202(a)]

**§ 602.1704 Property administration interchange agreements.**

(a) Department of the Army responsibility for interchange of property administration is assigned to the Chief, Contracts Branch, Office of the Assistant Secretary of the Army (Installations and Logistics). Each head of procuring activity concerned shall assure that prop-

erty administration interchange agreements are effected in accordance with the policies and procedures set forth in §§ 30.2 and 30.3 of this title.

(b) Under a property administration interchange agreement with single department property administration assigned to a military department other than the Army, contracting officers will look to the assigned property administrator for the discharge of all property administration functions (B and C–203) pertinent to Army contracts; no residual property administrator functions will be retained by an Army property administrator. When the single department property administration function is assigned to an Army property administrator, he shall assume all property administration functions for the participating military departments.

(c) A contracting officer may designate an authorized representative for property matters to advise or represent him in negotiation, execution and discharge of property administration agreements with other military departments. His duties may include—

(1) Negotiation and execution of property administration agreements, and

(2) Maintenance of the property section of the contract file (§ 1.308 of this title).

(d) Where more than one Army purchasing office of one (or more) procuring activity, along with a purchasing office of at least one other military department, has contracts at a single contractor location, a single Army purchasing office will be designated in accordance with the criteria in B and C–202(c), to represent the Department of the Army in negotiating and executing the property administration interchange agreement. Where the Department of the Army has been designated to perform the single department property administration function, the selected purchasing office shall provide the property administrator.

(e) The provisions of B and C–202(c) are equally applicable to contractor locations where Government property is provided by more than one procuring activity under the Department of the Army, but where other military departments are not involved.

(f) Department of the Army personnel will follow the procedures set forth in §§ 30.2 and 30.3 of this title and this subpart in administering property under a property administration interchange agreement. [B and C–202b]

### § 602.1705 Duties and responsibilities of the property administrator.

Department of the Army property administrators under property administration interchange agreements are responsible for providing the Departments concerned with the management data, documentation, and other information required for compliance with both subchapter A, chapter I of this title and Departmental procedures. In order to provide this information with the least impact on the contractor's accounting system, Departmental requirements will be obtained, analyzed, and summarized at the earliest possible date after execution of the interchange agreement and prior to survey of the contractor's accounting system for approval under B and C–203(b). One of the objectives of the interchange program is to relieve contractors of the need to change their accounting systems to accommodate varying requirements of the military departments and procuring activities; this objective will be accomplished by the single department property administrator presenting, to the maximum extent possible, all Departmental requirements at the initial accounting conference with the contractor prior to approval of the contractor's accounting system. Department of the Army property administrators will cooperate fully in meeting the needs of the contracting officers of other military departments. [B and C–203(b)]

### § 602.1706 Sources from which Government property may be furnished or acquired [B and C–205].

### § 602.1706–1 Military installations or other contractor's plants.

(a) Government property in the form of new facility construction may be acquired by a producing contractor directly from the construction contractor.

(b) If property is received at a contractor's plant on any basis except a requisition or other proper approval of the contracting officer or property administrator, the case shall be promptly reported to the head of procuring activity concerned. [B and C–205]

### § 602.1706–2 Direct purchase by the contractor.

Direct purchases by the contractor shall be subject to a determination by the contract administrator that the items and quantities are allocable to the contract involved and are reasonably necessary. For purposes of property control, within the scope of these instructions, it shall be considered that property purchased by a contractor, for which reimbursement is to be requested, becomes Government property upon its receipt by the contractor. Purchases of material by the contractor for rehabilitation of his plant, at cost, and used immediately will not be subject to the provisions of these instructions. Any such materials, for which the contractor is reimbursed for stock purposes and later issue, must be accounted for under the provisions of these instructions. [B and C–205.2]

### § 602.1707 Segregation or commingling of Government property and contractor's property.

Where a production line is solely engaged in Government work, contractor-owned and Government-owned plant equipment, special tooling, and items under tool room control may be commingled upon the approval of the property administrator. Such approval will be based upon assurance that the items are clearly identified as Government property; that the procedures of the contractor and the property administrator provide protection through inspection; and that the items will be used solely for Government work. Approval to place Government-furnished production equipment in a contractor's production line, equipped with both Government-owned and contractor-owned production equipment, is considered an inherent part of the authorization to provide such equipment to the contractor. [B–206 and C–210]

### § 602.1708 General.

(a) In order to perform work satisfactorily under a Government contract, a contractor must maintain some form of control records for all Government property, whether such property is furnished to the contractor or acquired by him for the account of the Government. It is the policy of the Department of the Army to designate and use such records as the official contract records and not to maintain duplicate records other than the property control records specified in B–303.1(c) and B–304. Exceptions to this policy may be necessary (1) on small dollar value contracts of short duration, (2) on contracts where few items of property are furnished to or acquired by the contractor, or (3) where the administrative expense of maintaining Government personnel at the contractor's plant or providing frequent official visits to the plant would exceed the cost of maintaining records at the purchasing office administering the contract. In such cases, and where for other cogent reasons it would not be in the best interest of the Government for the contractor to maintain the official records, a determination shall be made that the official records will be maintained by the Government. This determination shall be made in writing in accordance with paragraph (b) of this section and shall be made a part of the contract file; it shall take into consideration the findings and recommendations of the property administrator; and it may also be considered an adequate basis for determining that there would be no advantage accruing to the Government or to the contractor through execution of a property administration interchange agreement.

(b) Exceptions to the policy of using the contractor's Government property control records as the official contract records may be authorized by a head of procuring activity with respect to a specific contract, invitation for bids, or request for proposals or a class or group of contracts which are short-term or which involve providing only a few items of Government property. This authority may be redelegated to chiefs and acting chiefs of purchasing offices, without authority of further redelegation; when such exceptions are authorized, the contracts involved shall be modified as follows:

(1) Add the following to the "Government-furnished Property/Government Property" clause:

Notwithstanding the provisions of ( )* above, the Government will maintain the official control records for Government Property provided pursuant to this clause and the Contractor is not required to maintain property control records for such property in accordance with the requirements of the "Manual for Control of Government Property in Possession of Contractors."

(2) Add the following to the "Alterations in Contract" clause:

Sub-clause ( )*, modifying sub-clause ( )* has been added to the Government-furnished Property/Government property clause.

(c) Accounting for identical items of plant equipment valued at $500 or less on individual stock record cards or historical record forms in accordance with B–304.3 is not required. Individual item accounting is not required for identical items of furniture, office, medical, and cafeteria equipment, regardless of price. [B–301(a) and C–207.1]

**§ 602.1708–1 Accounting for items bearing registration numbers.**

Individual item accounting is required for those items which are included in a standard departmental registration numbering system as indicated in § 602.1714–1(a)(2), regardless of price.

**§ 602.1708–2 Exceptions.**

(a) Property turned over to a contractor for repairs or servicing may be accounted for as a suspense item in the military property account from which shipped, provided that (1) no parts or material is furnished and (2) no significant scrap will result from the repair. Accounting for property under § 30.2 of this title is not required of contractors for property turned over for repair or servicing under the provisions of § 602.502–51. This exception is also applicable to repairs and utilities "off-post" work as prescribed in AR 735–28.

(b) (1) Parts or material furnished to a contractor on a contract under § 602.502–51 (other than time-and-materials contracts) shall be considered as expended at the time of shipment from military accounts, provided such shipments are made only on the basis of specific job requirements. Shipping documents shall be used as credit vouchers to the military accounts and shall show the name of the contract administrator and the contract number in the consignee space. Copies of such documents shall be furnished the contract administrator. Determination of the amount of any item to constitute a "specific job requirement" and what quantities should be furnished in any single shipment, shall be the responsibility of the contracting officer.

NOTE: With reference to paragraphs (a) and (b) of this section, small purchase procedures should be used in those cases where minor repairs are necessary, the costs of those repairs are within the monetary limits of small purchase procedure, and no Government liability clause (§ 602.502–51) is considered necessary by the contracting officer. Since the addition of contract clauses to the small purchase forms is not permissible, small purchase procedures shall not be used where the contracting officer considers inclusion of the Government liability clause to be necessary to afford adequate protection to the Government.

(2) The contracting officer shall establish such controls as he determines expedient, considering the value of such expended items, to insure the proper consumption of the articles furnished. Any residual quantities of Government-furnished parts and materials shall be returned to stock. Any consequential scrap shall be handled under appropriate disposal procedures. The contracting officer shall maintain in the contract file such record of actions taken as is considered by him to be necessary to protect the interests of the Government. This exception is also applicable to repair and utilities "on-post" and "off-post" work as prescribed in AR 735–28.

(c) When a purchase order or contract does not exceed $5,000, jigs, patterns, fixtures, gages, and other manufacturing aids which are furnished to a contractor from stocks to aid in the performance of work may, at the option of the contracting officer, be accounted for as a suspense item in the military account from which shipped, provided that the total cost thereof does not exceed $1,000. Accounting for such property under § 30.2 of this title is not required.

**§ 602.1709 Contractor's property control records.**

(a) Where the contractor's property control records and procedures have been approved by the Department of the Army or by another military department for a particular type or types of contract (e.g. fixed-price, CPFF), a statement from the contractor that he will continue to use the approved procedure will constitute approval of his system on new contracts of the same types. In the event that additional or successor contracts differ in type from those on which the initial approval was issued, a review of the contractor's records and procedures will be required as a basis for approval.

(b) In conducting the review of the contractor's accounting control records and procedures, the property administrator should prepare a program covering substantially the areas and the methods prescribed in § 602.1716. The scope of the review should assure that all receipts of Government property are adequately documented, that they are properly recorded, and that use of the property is confined to the purpose for which it was procured. The program should also provide similar controls over disposition of Government property, but the magnitude, number, and detail of test checks scheduled should be governed by type and size of the contractor's operation. As one of the criteria in his review, the property administrator should require that (1) all documents or types of documents affecting accountability run in one or more unbroken numbered series and (2) all unused numbers are accounted for or that equivalent controls exist which will assure that all documents pertinent to a single contract are included in the property records of that contract.

(c) The official contract records shall be maintained current so that at any state of completion of the work under a contract the status of Government property may be readily ascertained. [B–301(b) and C–207.2]

**§ 602.1710 Pricing.**

The unit price of Government-furnished property shall be determined by the property administrator and furnished to the contractor. To determine realistic unit prices, the property administrator will utilize Department of the Army pricing guides and bulletins, and whenever necessary, secure the required pricing information from supplying depots or installations. Unit prices of production equipment, as defined in AR 700–34, shall reflect the acquisition cost computed as specified therein. In the event that unit prices are not available or obtainable after contact with all known sources of information, reasonable estimates shall be employed. [B–302 and C–207.10]

**§ 602.1711 Records to be maintained by Government personnel [B–303 and C–213].**

**§ 602.1711–1 Records of specific contracts where property is involved.**

(a) The property administrator shall maintain control records separately filed for each contract which provides for the use of Government property. The minimum control records specified in §§ 30.2 and 30.3 of this title shall be maintained by the property administrator regardless of the determination of who shall maintain the official contract property records. Where the determination is made that the Government will maintain the official records, the property administrator shall maintain such records specified in B–304 or C–207, as may be required to maintain effective property control.

(b) Each file shall be identified by the contractor's name and the contract number, and shall contain the following:

(1) *Copy of contract.* Where the property section of the contract file is to be maintained at a separate location, or where access to the contract file is not readily available to the property administrator, the contracting officer shall furnish the property administrator a copy of the contract or an extract of the contract provisions relating to Government property.

(2) *Control sheet.* An informational control sheet containing the information set forth in B–303.1(b) will be maintained.

(3) *Written receipts.* Written receipts for Government property shall be required of the contractor and shall be maintained in the property administrator's file only in the following instances:

(i) Where the official property records of the contract are maintained by the Government as an exception authorized under the provisions of B–301(a), or C–207.1; and

(ii) Where such action is considered essential to the maintenance of minimum acceptable property controls (e.g., where property is being furnished by the Government or is being acquired by the contractor prior to approval of the contractor's property control system; where difficulty is being experienced in locating receipt documents in the contractor's accounting system; where it is apparent that the interest of the Govern-

*Insert appropriate sub-clause.

ment would be jeopardized through reliance on the contractor's files of receiving documents).

The relaxation in the § 30.2 of this title accounting requirements for acknowledgment-of-receipt documents in the jacket file of the property administrator, shall not be construed as eliminating the necessity for submission by the contractor of documents or data covering plant equipment or other property set forth in Department of the Army directives such as those governing Production Equipment Records at PEQUA (AR 700–34), the Army Stock Fund (AR 37–60), and the Army Industrial Fund (AR 37–71).

(4) *Record of completed items.* The property administrator shall maintain a record of all completed products under the contract, based upon authenticated receiving reports or processed vendor's shipping documents, such as DD Form 250, as follows (this record will not be required where Government-furnished property is not involved):

(i) When there is no lapse of time between Government inspection and acceptance of completed products and shipment from the plant site, the records shall, as a minimum, consist of a ledger sheet or sheets summarizing quantities accepted and shipped.

(ii) When end items are accepted by the Government and stored with the contractor, stock record cards shall be used showing quantities accepted, quantities stored, storage locations, quantities shipped, and balances on hand.

(iii) Where contracts provide that completed products are to be retained by the contractor for further use under the contract, they shall upon acceptance, be considered "Government-furnished Property" and will be recorded as prescribed in these instructions.

(5) *Record of receipt and shipment of Government-furnished or contractor-acquired property.* Where the Government maintains the official records for Government property under the exception authorized in B–301(a) or C–207.1, the contractor shall be required to provide the property administrator with such documentation of receipts and shipments of Government-furnished and contractor-acquired property as necessary to permit full compliance with the procedures prescribed in B–304. A separate register shall be maintained for each file (separate property account) to control and to permit prompt location of all property vouchers. A consecutive series of voucher numbers shall be used from inception of the contract until its completion or termination. Contractor issue slips need not be included in the record. [B–303.1 and C–213.1]

### § 602.1712 Records to be maintained by the contractor [B–304 and C–207].

### § 602.1712–1 Records of material—custodial records.

Custodial records shall normally include as a minimum (a) the totals of each line item for which the toolroom, tool crib or stockroom has custody, and (b) hand receipts, tool checks, tool slips or other evidence of issue to the individuals who use the property. Care shall be exercised to avoid imposition of unreasonable controls (inconsistent with B–304.1(d) and C–207.4) upon contractors for minor items of office supplies such as staplers, rulers and punches. [B–304.1(c)]

### § 602.1712–2 Records of plant equipment.

(a) The form and distribution of property records maintained for plant equipment will be accomplished in accordance with the provisions of B–304.3 and AR 700–34. Where a property administration interchange agreement exists and the property administrator is a member of a Department other than the Department of the Army, copies of the records required by AR 700–34 for other than property administration purposes will be obtained from the single department property administrator.

(b) In addition to the exceptions provided in B–304.3 (a) and (b), exempting the requirement for maintaining individual property records, the following exceptions shall also apply:

(1) Items of plant equipment of identical nomenclature and operating performance for which individual item accounting is not required because of a unit price of $500 or less (§ 602.1708(c)) may be recorded on a single record. This record should reflect quantities received and issued, balance on hand, posting references, and unit price. In the event such items listed on a single record have serial numbers or manufacturer's numbers, these numbers shall be listed on the inventory record or on a single supporting list. Such inventory accounting shall not be construed as permitting such items to be considered as "materials."

(2) The description of accessory and auxiliary equipment to be entered on the plant equipment record of the item on which they are being used should not be construed as requiring records of motor serial numbers to be maintained during the life of a contract, where the motors are changed between machines for maintenance purposes. The procedures of the property administrator and the contractor shall, however, upon receipt and inspection of equipment at contract completion or termination, account for all accessory and auxiliary equipment which is attached to or otherwise a part of an item of plant equipment and which is required for its normal operation.

(3) Master and production gages and minor plant equipment with a unit value of $200 or less may be accounted for on inventory records described in subparagraph (1) of this paragraph.

(c) The duty of maintaining the purchasing office files of production equipment record forms (DA Form 804, Production Equipment Record, or equivalent prior to 1 July 1961, with DD Form 1342 required for transactions after July 1, 1961) in compliance with AR 700–34 may be assigned to the property administrator or to the authorized representative of the contracting officer for property matters by the chief of the purchasing office or by the contracting officer. These files are maintained for management purposes and for industrial mobilization planning, and not as "acknowledgment of receipt" as provided in B–303.1(c).

(d) Information recorded on DA Form 804 prior to 1 July 1961 need not be transferred to DD Form 1342 retroactively. Copies of DD Form 1342 delivered to the property administrator by the contractor will be distributed in accordance with AR 700–34. Copies of the DD Form 1342 will be retained by the property administrator in those cases where distribution of copies to PEQUA is not specified in AR 700–34. [B–304.3 and C–207.5]

### § 602.1712–3 Records of real property.

Records of real property prepared or furnished by Division, District, or Post Engineers, such as DD Form 1354 (Transfer of Construction), may be maintained in cases where they are found by the contractor to be consistent with his accounting system. [B–304.4 and C–306(d)]

### § 602.1712–4 Records of scrap.

Separate records shall be maintained for the different categories of scrap or salvage generated. The records shall be such as to reflect the following minimum information:

(a) Scrap classification;
(b) Quantities on hand;
(c) Unit of measure;
(d) Record of all disposals;
(e) Date and voucher number; and
(f) Contract identification, including name and location of contractor and contract number. [B–304.5 and C–212]

### § 602.1712–5 Financial control accounts.

(a) In order to conform to the Financial Management Plan of the Army (AR 37–5 and AR 37–108), dollar amounts of Government-owned facilities of the classes of property specified in paragraph B–304.7 will be secured by the property administrator from the official property records of Department of Army contractors. Detailed procedures for use of this information by property administrators and finance and accounting officers are contained in AR 735–20, AR 735–72, and AR 37–108. Financial controls are not required for minor plant equipment, special tooling or materials (B–103), except that, financial information required in connection with property which is part of the corpus of the Army Stock Fund or the Army Industrial Fund, or is governed by the Army Command Management System, will be secured from the accounting records of the contractor when required. The criteria set forth in paragraphs (b) and (c) of this section shall be applied when classifying equipment for this purpose.

(b) Production equipment includes equipment and machinery valued at $500 and more per unit as defined in AR 700–34. It includes such property in actual use, stored in place as standby, placed in proximity storage, or maintained in reserve in central storage when such equipment is in possession or control of a contractor under the terms of a contract.

(c) Plant equipment includes property of a capital nature with unit acquisition cost of $200 and more per unit and production equipment with unit acquisition costs of $200 to $500 (B–304.3) [B–304.7]

### § 602.1713 Numbering property accounts.

Property accounts serial numbers specified in paragraph 12*b*, AR 735–5, need not be obtained from Army commanders for accounts established under contracts to which §§ 30.2 or 30.3 of this title or Part 13 of this title are applicable, but rather the property account shall be identified by the contract number, and the appropriate regional office of the U.S. Army Audit Agency shall be advised. For the purposes of B–401.1, the digits which represent the Army Fiscal Station Number in the property identification number set forth in § 602.1714–1 (a) (3) shall be used. [B–205 and C–214]

### § 602.1714 Identification of Government property.

Identification of Government property shall be accomplished prior to delivery as part of the purchase agreement, by the contractor, or by the procuring service, as applicable. Government property on hand or on order shall be identified as prescribed herein when the equipment is prepared for storage, reactivated, or at any other convenient occasion. [B–401 and C–307]

### § 602.1714–1 Identification marking of Government property.

(a) The identification marking of Government property shall be physically affixed to the item in accordance with B–401. The identification markings shall consist of the following as may be applicable for the particular item being identified:

(1) *Department of the Army control.* The identification symbol "USA" is applicable to all Government property except as may be exempted in accordance with B–401.1. The letters "USA" will be permanently affixed to the item to indicate Government ownership of property under control of the Department of the Army.

(2) *Registration number.* This number is applicable to those items included within a standard military registration numbering system such as motor vehicles (§ 602.450(b)), materials handling equipment (AR 700–3900–5), railroad equipment (AR 55–255), and any other applicable items. Assigned registration numbers shall be physically affixed to the item in accordance with applicable instructions.

(3) *Government tag number.* This number is applicable to those items for which individual item accounting is required as stipulated in § 602.1712–2, except those items having a registration number as prescribed in subparagraph (2) of this paragraph. This number shall be the Government property identification number assigned in accordance with B–401.1, which is as follows for the Department of the Army.

(i) The first part shall be the letters "USA" to indicate Government ownership as prescribed in subparagraph (a) (1) above.

(ii) The second part shall consist of the Army fiscal station number assigned the installation or office administering the contract under which the property is acquired for the first item for the account of the Government. Fiscal station numbers are listed in AR 37–102–1.

(iii) The third part shall consist of a six-digit serial number. The assignment of serial numbers shall be in numerical sequence commencing with "000001" for each installation or office (to which a Fiscal station number is assigned) that administers contracts under which property is acquired for the account of the Government.

(b) Under the provisions of § 30.2 of this title, property acquired by a contractor for the account of the Government becomes Government property for the purpose of property accountability upon receipt thereof by the contractor. For purposes of property accountability and control, the contracting officer and property administrator shall take action to assure that such property is immediately marked as Government property and properly accounted for at the time of receipt. This action will not be delayed pending evidence of inspection and acceptance being reflected on DD Form 250 (Material Inspection and Receiving Report). The contracting officer or property administrator shall instruct the contractor that immediately upon receipt of any item or property procured for the account of the Government the contractor shall—

(1) Advise the contracting officer, by the most expeditious means, of the receipt of such property and request an inspection; and

(2) If the item is not already identified, immediately affix securely to each item of such property or equipment an appropriate temporary tab identifying the property as Government property and indicating the number of the contract for which the property or equipment was procured.

(c) Upon notification by the contractor of receipt of property, the contracting officer shall notify the property administrator and shall arrange for prompt final inspection and acceptance by responsible Government personnel. After completion of the final inspection and acceptance, evidenced by DD Form 250 (Material Inspection and Receiving Report), the property administrator shall insure that the temporary tag is replaced by the contractor with a permanent identification tag containing the required information.

### § 602.1715 Contractor's responsibility and liability [B–402, C–303 and C–304].

### § 602.1715–1 Contractor liability.

(a) No separate file of letters of advice shall be maintained for the property auditors although copies of such letters may be furnished upon request when questions are raised by auditors. Channels through which such letters are reviewed by audit personnel lie within the scope of audit instructions. If such letters, however, are submitted to the Chief, U.S. Army Audit Agency, for review and he concludes that further action is desirable, he will so state in writing to the head of procuring activity concerned. Upon review of the above communication, the head of procuring activity shall initiate such further action as he considers is warranted by the facts. In all cases, he shall advise the District Manager, U.S. Army Audit Agency as to the decision reached.

(b) The written advice of a contracting officer in a contractor property account serves the same purpose as a report of survey in a military property account even though the contractor is the responsible party and his liability is for determination only under the terms of the contract. The report of the facts surrounding the loss or damage must be accurate and complete; the findings of the contracting officer must make reference to specific terms of the contract supporting his determination; and the file, in order to be accepted as valid, must constitute a full report of the case without reference to other documents. It is the personal responsibility of the contracting officer to insure that the interests of the Government are protected at all times; approval of the contractor's case for relief from property accountability based on an inadequately documented case constitutes failure to dispatch that responsibility. [B–402.2 and C–303(e)]

### § 602.1715–2 Shipment and receipt of Government-furnished property.

(a) When Government property is shipped to a Department of the Army contractor for use under a contract, the shipping accountable officer, in addition to furnishing a copy of the shipping document to the property administrator, will forward two copies to the contractor with instructions to acknowledge receipt of the property on one copy and to furnish it to the designed property administrator for the contract. Copies of shipping documents will reflect unit cost and estimated transportation costs. The second copy will be retained by the contractor. When it is the regular practice to obtain the contractor's acknowledgment of receipt on copies of the shipping document and copies of such documents have not been received, the property administrator will request that acknowledgment of receipt of the property be furnished on the contractor's receiving report, tally, or equivalent form.

(b) It shall be considered adequate for property control purposes, and within the scope of § 30.2 of this title, for operating contractors to acknowledge receipt for new facilities constructed under separate construction contracts, direct with construction contractors, on DD Form 1354, if accompanied by supporting documents. These transactions may be considered as shipment and receipt of Government property.

(c) In the absence of a transportation officer or agent, the property administrator must initiate and follow to conclusion necessary action with respect to any discrepancies incident to shipment or receipt of property made on a Government bill of lading or on a commercial bill of lading for conversion to a Government

bill of lading at destination. (See AR 735–11.)

(d) Where the property administrator is a member of a department other than the Department of the Army and is acting under a property administration interchange agreement, Reports of Survey (DD Form 46) covering discrepancies incident to incoming shipments of Department of the Army property will be secured from the single department property administrator with all spaces on the front of the form executed and in the number of copies required for compliance with AR 735–11. Where a Department of the Air Force property administrator, acting as the single department property administrator, considers the services of a surveying officer necessary, Air Force plant representatives and chiefs of air procurement districts are authorized to appoint Department of the Air Force personnel to serve as surveying officers. Under such circumstances, the action required in space 43, 44, or 47 of DD Form 46 is reserved by statute to the Department of the Army installation commander responsible for administering the contract. If the Department of the Army installation commander considers that the report of the surveying officer and appointing authority does not constitute a firm basis for completing his action, he may obtain additional evidence on which to base a decision from the appointing authority or he may investigate directly. Further action will be taken by the chief of the purchasing office and by the Chief of Finance in accordance with AR 735–11. [B–402.3 and C–204]

**§ 602.1716 Selective examinations of contractor records and property.**

(a) To discharge the duties of the property administrator effectively and satisfactorily as prescribed in B and C–202, the property administrator shall conduct or cause to be conducted periodic inspections of the physical condition of Government property in possession of the contractor to determine the adequacy of maintenance, repair, protection, and preservation. He shall report promptly, in writing, to the contracting officer any failure of the contractor to maintain, repair, protect, or preserve any of the Government property in the contractor's possession.

(b) The property administrator's program must include, on a continuing basis, the following:

(1) Verification of the accuracy of the contractor's property records except where Government records have been designated as the official contract records;

(2) Physical checks of representative portions of all classes of property connected with the contract; and

(3) Review of the contractor's issue and consumption of materials.

(c) It is recognized that the method for physical and accounting control of Government property may vary between contractors as well as between individual contracts; therefore, it is impractical to prescribe a detailed program for selective examinations of Government property to be followed without variation. These instructions are intended to represent the general rule for property administrators in establishing programs to meet the peculiarities of the contract or contracts to which he is assigned, based upon his study and clear understanding of the contract provisions.

(d) The selective checks made by the property administrator shall encompass representative amounts of all classes of Government property, to the extent deemed necessary, to determine the adequacy of the contractor's records and his controls over usage, consumption, and maintenance of production equipment and materials.

(1) The first step in checking the materials will be to determine that all quantities received have been appropriately recorded on the records maintained for such property (e.g., inventory records or receipt-issue documents). A number of debit property documents will be selected from the contractor (or Government) control files and compared with the records to determine that appropriate recording has been effected. Emphasis will be placed on items of relatively high unit cost, large-dollar value of consumption, and sensitive nature. Test inventories and test of credit postings of a sufficient number of items will be made to establish the credibility of the records and encourage accuracy on the part of the record-keeping personnel.

(2) When special tooling is supplied to the contractor as Government-furnished property, the selective check procedures for plant equipment set forth in subparagraph (3) of this paragraph shall be used as a guide. In the case of special tooling manufactured by the contractor as an end item under the contract or manufactured or acquired by the contractor under § 13.504 of this title, the selective check will be only to assure that the contractor is following the provisions of the contract.

(3) The requirements of § 30.2 of this title for accounting for individual items of plant equipment make possible a relatively simple and exact procedure for selective check of this type of property.

(i) The property administrator shall select from his control files a representative number of debit property documents which include items of plant equipment. A comparison of these documents with the records of plant equipment shall then be made to determine whether adequate records have been established for all items of plant equipment included on the documents selected. In this connection, all credit entries on the records shall be examined and the credit documents supporting such entries reviewed to determine their propriety.

(ii) The two methods of physical checks prescribed below shall be used to verify the existence of the property, to check the completeness of the property records, and to test the efficiency of the contractor's marking of Government property.

(*a*) *From records to property.* The property administrator shall select a number of items of plant equipment as recorded on the property records, and by means of property identification numbers and location shown upon such records, inspect the property involved to verify its existence.

(*b*) *From property to records.* A number of items of plant equipment shall be selected by the property administrator by physical inspection in the plant and a notation made of property identification numbers and description of such items. The property records shall then be reviewed to determine whether the property involved is properly recorded.

(iii) The selective checks of real property records shall include verification of the records including assurance that physical changes to buildings, utility plants and systems, roads, fences, etc., observed by the property administrator are properly reflected on maps, drawings, plans, specifications or DD Form 1354 (Transfer and acceptance of military real property). At such intervals as the property administrator deems necessary, he shall select records of a number of units of real property and by physical inspection of such units determine whether the records are complete and properly reflect any additions, extensions, or alterations.

(e) The contractor's documents which support inventory adjustments shall be reviewed with a view to selecting for investigation all adjustments which, after consideration of unit value, volume of transactions, previous adjustments, and sensitive nature of items, appear to be unreasonable. Detailed investigation will be made to determine as far as possible whether such adjustments represent actual losses of Government property or are due to errors in record-keeping. If the number of adjustments is large, consideration will be given to requesting that adjustments to specific line items over a period of time be summarized by the contractor in a manner which will reveal offsetting and net adjustments. If, in the opinion of the property administrator, adjustments represent unreasonable losses of Government property, they will be reported to the contracting officer with a statement describing the circumstances and a request for his written advice.

(f) Normally, the contractor's organization shall include a production planning department responsible for the orderly flow of work through the plant. One of the functions of such a department is to control the flow of productive materials from stores to the plant floor. The material control system employed by the contractor will often provide the property administrator a means for an overall test of the contractor's use of items of productive materials. It is essential that the property administrator have a clear understanding of such system.

(1) Where quantities of certain productive materials are not excessively large or are not readily susceptible to count, a current reconciliation of total quantities furnished with quantities incorporated in delivered products, plus work in process, quantities in stores, and materials scrapped can be accomplished.

(2) Where a reconciliation as outlined above is not feasible, withdrawals of a representative number of productive materials from stores for a given period, as shown on the contractor's stores in-

ventory cards, shall be reviewed to determine whether such withdrawals are in excess of established requirements for the manufacture of the items produced. In this connection, investigation shall be made to determine the allowances which have been established under the contract for normal losses in the process of manufacture, and the nature of any factors resulting in consumption in excess of such requirements.

(g) The property administrator shall be responsible to the contracting officer for checking the accuracy of documents covering receipts of property by the contractor. The property administrator shall likewise assure himself that all items fabricated by the contractor, or withdrawn from contractor stores for charge to the contract are properly supported by sound documentation.

(h) Working papers outlining the scope of the check and items covered, shall be prepared by the property administrator and maintained by him as a permanent record of his work. Working papers shall be designed to show the steps taken in making the required checks with regard to each class of property, the nature and frequency of errors corrected by the contractor as a result of the checks, and cross-reference to any written advices of contracting officer resulting therefrom. The file of working papers shall be relied upon as one of the most important indications of the condition of the accounting records, the proper usage of property furnished under the contract, and efficient and consistent performance of duty on the part of the property administrator and personnel assigned to duty under him.

(i) There shall be included in the property administrator's control plan for each contract a provision for check of evidence on the following points at contract completion or termination:

(1) Stock record cards have been reduced to zero;

(2) Any required adjustments have been properly processed and recorded;

(3) Any required collections from the contractor on property transactions have been made and properly recorded;

(4) Inventories have been taken in agreement with contract provisions and directions of the contracting officer;

(5) Residual inventories, if any, have been properly disposed of;

(6) Scrap, if any, has been disposed of; and

(7) Disposition of special tooling has been accomplished as required by the contracting officer.

**§ 602.1717 Transfers of property accounts between property administrators.**

(a) When transfer of contract property accounts occurs within the same installation and a property administrator is relieved from such duty by the appointing authority, the newly designated property administrator shall automatically assume all the control and accounting functions outlined in these instructions, and maintain all the required records which were established by his predecessor. The newly designated property administrator shall be responsible for any corrective action which may be required to insure that the established records conform in every respect to the requirements contained herein. The use of certificates to effect the transfer of industrial contract property accounts is not required.

(b) Where the property administrator is directed to transfer an established contract property account to a property administrator of a different Army installation or purchasing office, the official contract records shall be forwarded with a letter of transmittal showing the date and voucher number, where applicable, at which the transfer is effected and requesting that the receiving property administrator acknowledge receipt of the records by endorsement thereon. A copy of the letter of transmittal shall be furnished the appropriate office of the cognizant audit agency. The copy of the letter of transmittal bearing the receipt of the receiving property administrator shall be retained in the files of the transferring property administrator for informational and control purposes.

(c) Where property administration interchange agreements (B and C–202 (b)) are established during the period of performance on contracts affected by the agreement, the property administration control files and other necessary documents and correspondence will be transferred substantially as prescribed in paragraph (b) of this section, as of the effective date of the interchange agreement. Acknowledgment of receipt of the files will be held in the jacket file of the contract.

**§ 602.1718 Transfer of property from military to contractor (industrial) property accounts.**

Policies and procedures governing the transfer of military property to contractors and the accounting for such property in instances where §§ 30.2 or 30.3 of this title are not applicable are contained in AR 735–71. These regulations include provisions that, where Government property is lost or damaged and the property administrator is unable to exhibit conclusive proof of receipt of the items by a contractor, the property must be accounted for on a Report of Survey (DD Form 200 or DD Form 46) in accordance with AR 735–11.

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## PART 603—INSPECTION AND ACCEPTANCE

17. Part 603 is revised to read as follows:

Subpart A—Inspection


603.102 Activities responsible for inspection.
603.105 Places of inspection
603.150 Inspection requirements.
603.151 Marking and shipping.


Subpart B—Acceptance


603.201 General.
603.204 Responsibility for acceptance.
603.205 Acceptance of supplies or services not conforming with contract requirements.


AUTHORITY: §§ 603.102 to 603.205 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

### Subpart A—Inspection

**§ 603.102 Activities responsible for inspection.**

(a) *Compliance with requirements of specifications.* An inspector assigned to perform inspection services under a given contract shall be guided by the provisions of the contract, instructions issued by the procuring activity and the following:

(1) The Government inspector shall make optimum use of the records of inspections and tests performed by or for the contractor in accordance with the quality assurance provisions of commodity specifications and other pertinent inspection records, in determining acceptability of supplies.

(2) Government inspections shall be planned and carried out in a manner which will provide adequate assurance of quality and efficient use of the inspection resources of the military departments.

(3) Where the specification or contract requires the contractor to conduct particularly expensive tests involving destruction of supplies, extended periods of time for conducting the tests, or other factors contributing to high testing costs, these tests shall be coordinated for simultaneous contractor and Government accomplishment to the maximum extent practicable to preclude the needs for subsequent independent Government verification testing.

(b) *Inspector functions in Government-owned or operated facilities.* Inspectors in Government-owned or operated manufacturing installations shall not be assigned the dual functions of process inspection for the purpose of controlling production and final inspection for the purposes of accepting the product for military use.

**§ 603.105 Places of inspection.**

In instances where inspection is to be performed at destination, arrangements shall normally be made to have the receiving activity perform necessary inspection.

**§ 603.150 Inspection requirements.**

(a) Inspection shall be conducted in accordance with (1) provisions of the contract, (2) Subchapter A, Chapter I of this title, (3) this subchapter, (4) AR 715–20, and (5) instructions issued by the procuring activity. The requirements for inspection (including testing), as provided for in the preceding sentence, may not be waived because an item is included in a Qualified Products List.

(b) The nature and manner of performance of an inspection may vary according to the importance of an item, the importance of individual characteristics, and the known quality of the contractors' performance.

(c) Sampling procedures may be used when such method is adequate to protect the interest of the Government.

(d) A contracting officer shall normally rely only on inspections and tests performed by the Government, in the following situations: (1) Test requirements which necessitate the use of specialized test equipment or facilities not ordinarily available in contractor's

plants or commercial laboratories (e.g., ballistic testing of ammunition, environmental tests, simulated service tests) and (2) preproduction, pilot-lot, or pilot model examination and testing, whether at a Government installation or at the contractor's plant.

**§ 603.151 Marking and shipping.**

Each procuring activity shall insure that subordinate inspecting organizations thoroughly understand authorized procedures covering (a) proper handling of shipments at Government expense (i.e., Government bill of lading, prepaid commercial bill of lading, shipments through the mail, Government-owned transportation, and emergency shipments), (b) guarding of shipments containing classified supplies and services (AR 380–5), (c) shipments at contractor's expense, and (d) all other necessary instructions (SR 715–55–5). Marking to indicate inspection status shall be accomplished with Department of Defense inspection stamps in accordance with procedures established in AR 715–20.

### Subpart B—Acceptance

**§ 603.201 General.**

Acceptance shall be made as promptly as practicable. Affirmative action in accordance with provisions of the contract and instructions of higher procurement authority shall be taken with respect to acceptance or rejection of all supplies and services procured by the Department of the Army (including those manufactured in the Government-owned and operated plants).

**§ 603.204 Responsibility for acceptance.**

(a) Consideration shall be given to use of a supplier's certificate of conformance, as provided for in § 14.204(b) of this title, with respect to (1) items or components and constituent materials which are commercially available or are of low functional importance; (2) packing and packaging materials, when not of critical importance, and (3) general housekeeping or service items, books, periodicals, and items of like character. In connection with such items or materials the use of a supplier's certificate substantially as set forth below is authorized:

The undersigned, individually and as the authorized representative of the contractor, warrants and represents that: All of the information supplied above is true and accurate; the material covered by this certificate conforms to all the contract requirements (including but not limited to the drawings and specifications); the analysis appearing herein is a true and accurate analysis; and this certificate is made for the purpose of inducing payment and with knowledge that the information and certification may be used as a basis for such payment.

(b) A contract clause, as set forth below, shall be used in contracts where acceptance precedes inspection (§ 14.204 (c) of this title).

CERTIFICATION ACCEPTANCE

Notwithstanding any other provision of the contract, if the supplies for which the Contractor has furnished a certificate of conformance required by the contract are found not to conform to the contract requirements, the Government may, upon notice furnished within a reasonable time after discovery of such nonconformity, reject the supplies and require replacement thereof. Use by the Government of the Contractor's certificate of conformance does not preclude inspection or test or both by the Government. Where a certificate has been furnished by the Contractor and the Government rejects the supplies, the Contractor shall have the right to request that a reinspection or retest be performed at the Contractor's expense.

(c) Certificates of conformance will normally be accepted only from prime contractors. However, certificates may be accepted from a subcontractor if countersigned by a responsible official of the prime contractor. The certificate may be for full performance or any portion thereof. The following are to be included, as a minimum, in the certificate presented by the contractor:

(1) Complete nomenclature of supplies together with lot numbers or other identification, including quantity in each lot or shipment;

(2) Contract number and purchase order number;

(3) For each lot or shipment, analytical results for each test or inspection prescribed by contract together with required specification limits;

(4) Name of company and date of the test or inspection; and

(5) Signature and title of certifying official.

**§ 603.205 Acceptance of supplies or services not conforming with contract requirements.**

Each procuring activity shall clearly define the organizational level and the extent to which this level may approve deviations from contract requirements for guidance of contracting officers in the application of the provision in the Inspection clause (§ 7.103–5 of this title) to the effect that the contracting officer may require delivery of uncorrected supplies at reduced price. Such level for approval should be such that the least delay consistent with the best interest of the Government may result. Such deviation may not normally be applied except when cogent reasons of urgency, practicality, or economy dictate, and such action is in the best interest of the Government, taking into account an equitable reduction of price or other benefit to the Government.

## PART 604—CONTRACT COST PRINCIPLES AND PROCEDURES

18. New Part 604 is added, as follows:

**§ 604.050 Uniform application.**

Directives, regulations, instructions, or procedures which interpret, expand, or limit the substantive provisions of Part 15 of this title shall not be published by any agency, command, or office of the Department of the Army without prior approval of the Assistant Secretary of the Army (Installations and Logistics). Procedural guidance considered necessary for the orderly conduct of procurement shall be submitted by the head of procuring activity for review and approval by the addressee in § 590.150(b) (6) of this chapter prior to issuance.

(Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

## PART 605—PROCUREMENT FORMS

19. Part 605 is revised, except for § 605.556 in Subpart E which remains unchanged, as follows:

### Subpart A—Forms for Advertised Supply Contracts

| Sec. | |
|---|---|
| 605.101–2 | Conditions for use. |
| 605.102–2 | Conditions for use. |

### Subpart B—Forms for Negotiated Procurement

| | |
|---|---|
| 605.203–2 | Conditions for use. |
| 605.206 | Cost and Price Analysis (DD Forms 633, 633–1, 633–2, 633–3 and 633–4). |

### Subpart C—Purchase and Delivery Order Forms

| | |
|---|---|
| 605.303 | Order for Supplies or Services (DD Forms 1155, 1155r, 1155c, 1155c–1, and 1155s. |

### Subpart D—Construction Contract Forms

| | |
|---|---|
| 605.401 | Standard Forms 19, 19A, 20, 21, 22, 23, 23A, and DD Form 1260. |

### Subpart E—Special Contract and Order Forms

| | |
|---|---|
| 605.501 | Negotiated utility service contract forms. |
| 605.504 | Order for Paid Advertisements (Standard Forms 1143 and 1143a). |
| 605.505 | Communication Service Authorization (DD Form 428). |
| 605.550 | Lease agreement—Government-owned personal property. |
| 605.551 | Letter contract. |
| 605.552 | Government's Order and Contractor's Acceptance (DA Form 47). |
| 605.553 | Academic instruction contracts. |
| 605.553–1 | Basic Agreement for Academic Instruction (DA Form 357). |
| 605.553–2 | Order Form to Enter Into Contract for Academic Instruction (DA Form 358). |
| 605.553–3 | Basic Agreement for Off-Duty Academic Instruction (DA Form 588). |
| 605.553–4 | Order Form to Enter into Contract for Off-Duty Academic Instruction (DA Form 589). |
| 605.554 | Service Order for Household Goods (DD Form 1164). |
| 605.556 | Facilities Contract Form (April 1961). |

### Subparts F—N [Reserved]

### Subpart O—General Policy

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| 605.1501 | Deviations from approved forms. |
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| 605.1502 | Supply of forms. |
| 605.1502–1 | Forms stocked by adjutant general publications centers. |
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| 605.1502–3 | Multiple part manifold forms. |
| 605.1502–4 | Forms not stocked by adjutant general publications centers. |
| 605.1502–5 | Reproducible masters. |
| 605.1502–6 | Preprinted backs. |

AUTHORITY: §§ 605.101–2 to 605.1502–6 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

## Subpart A—Forms for Advertised Supply Contracts

### § 605.101–2 Conditions for use.

(a) To facilitate bidding and to eliminate unnecessary distribution of Standard Form 32 and appropriate additional general provisions, their incorporation by reference in a solicitation in accordance with the following procedure is authorized.

(1) Standard Form 32 and additional general provisions shall be combined in a single set of clauses. Such set of clauses shall be identified by title (e.g., "Standard Supply Contract Provisions") and shall show the agency responsible for issuance, its effective date, and the date of latest amendment. The provisions of Standard Form 32 incorporated in the set shall be identified as such. Superseded clauses shall be crossed out in all copies of the set and appropriate reference made to the paragraphs in the set which contain the amended clauses. Language substantially as follows shall be set forth in the Schedule:

Standard Supply Contract Provisions (properly identified by agency title, and date), receipt of a copy of which is acknowleged by the bidder, are incorporated herein and made a part hereof with such deletions, additions, and amendments, if any, as are set forth below.

(2) Before a set of clauses can be incorporated by reference it is essential that the purchasing activity distribute copies to each prospective bidder on the mailing list, requesting that these contract provisions be retained for future reference. Additional copies of the set must be made available promptly to bidders and prospective bidders upon request.

(b) If incorporation of the set by reference has not been accomplished in a solicitation, then the set shall be furnished to each prospective bidder with the solicitation.

### § 605.102–2 Conditions for use.

Standard Form 32 and any additional general provisions may be incorporated by reference under the same procedures as set forth in § 605.101–2.

## Subpart B—Forms for Negotiated Procurement

### § 605.203–2 Conditions for use.

Standard Form 32 and any additional general provisions may be incorporated by reference under the same procedures as set forth in § 605.101–2.

### § 605.206 Cost and Price Analysis (DD Forms 633, 633–1, 633–2, 633–3, and 633–4).

Where the contractor's accounting system makes the use of DD Form 633 impracticable and the contractor submits necessary data in a format acceptable to the contracting officer pursuant to § 12.206–2(a) of this title, the information furnished shall include pertinent details as to cost elements, with the specific statements and authentications required by DD Form 633 or by the special cost and price analysis forms listed in § 16.206–3 of this title.

## Subpart C—Purchase and Delivery Order Forms

### § 605.303 Order for Supplies or Services (DD Forms 1155, 1155r, 1155c, 1155c–1, and 1155s).

The Department of the Army has been granted authority and shall continue to use DD Form 1155c, Continuation Sheet, in lieu of DD Form 1155c–1, Commissary Continuation Sheet.

## Subpart D—Construction Contract Forms

### § 605.401 Standard Forms 19, 19A, 20, 21, 22, 23, 23A, and DD Form 1260.

When using Standard Form 19 in an advertised procurement, the contracting officer shall make the following provisions a part of the invitation for bids:

Unless a different acceptance period is specified in the bid, it is understood that a period of 60 days after bid opening is intended by the bidder.

If the bidder fails to insert the number of calendar days for completion on the face of Standard Form 19, and if the Special Conditions of the Invitation, Bid and Award provide for a definite period of performance, such special condition governs and the omission of this information on the face of Standard Form 19 by the bidder does not make the bid nonresponsive. Prior to the issuance of the invitation for bids and for the purpose of insuring that a bidder does not inadvertently insert a performance period greater than that specified elsewhere in the invitation, the contracting officer may insert such period in the Standard Form 19 space providing for the completion of performance, provided it is consistent with any performance period stated elsewhere in the invitation.

## Subpart E—Special Contract and Order Forms

### § 605.501 Negotiated Utility Service Contract Forms.

Additional instructions for the use of DD Form 671 (Negotiated Utility Service Contract) (Short Form) are published in AR 420–62.

### § 605.504 Order for Paid Advertisements (Standard Forms 1143 and 1143a).

DA Form 192 (Request for Authority to Advertise) shall be used in requesting authority to place advertisements in newspapers (see § 590.1005–6 of this chapter).

### § 605.505 Communication Service Authorization (DD Form 428).

DD Form 428 shall be used in accordance with SR 105–20–3.

### § 605.550 Lease Agreement—Government-Owned Personal Property.

The sample form set forth below is prescribed for any lease of Government-owned personal property under the authority of 10 U.S.C. 2667. Variations in the terms and conditions set forth in this lease form may be approved by a head of procuring activity to whom the authority to approve leases of personal property has been delegated, but only to the extent that such approval complies with all the limitations contained in such delegated authority (§ 606.204–8 of this chapter). Authority is granted in effecting procurement outside the United States, its possessions, and Puerto Rico, to modify the form as indicated:

Paragraph 18—Disputes. To substitute the Disputes clause prescribed in ASPR 7–103.12(b) or in APR 7–103.12, as appropriate.

Contract No. _____

LEASE AGREEMENT—GOVERNMENT-OWNED PERSONAL PROPERTY

DEPARTMENT OF THE ARMY

Lessee and address _____
Property to be used at _____

PAYMENT

To be made to _____ United States Army, at _____.

This lease is authorized by 10 U.S.C. 2667.

PROCUREMENT FORMS

This lease agreement, entered into this _____ day of _____ 19__ by and between the United States of America, hereinafter called the Government, represented by the Contracting Officer executing this agreement, and _____
*a corporation organized and existing under the laws of the State of _____
*joint venture consisting of _____
*a partnership consisting of _____
*an individual trading as _____
of the City of _____ in the State of _____, hereinafter called the Lessee, Witnesseth That,

1. The Government hereby leases to the Lessee and the Lessee hereby hires from the Government, upon the terms and conditions hereinafter set forth, the personal property listed in Schedule A which is attached hereto and made a part hereof.

2. This lease is subject to the approval of _____ and shall not be binding until so approved. The term of this lease shall commence on the _____ day following the mailing of written notice to the Lessee that the lease has been so approved and that the property is ready for delivery, and shall continue for a period _____ [days, months or years]** or until sooner terminated or revoked in accordance with the provisions hereof.

3. At any time during the term, either party may terminate this lease in whole or in part effective not less than 90 days after receipt by the other party of written notice thereof without further liability to either party. However, the Secretary of the Army may revoke this lease in whole or in part at any time.

4. Upon commencement of the term of this lease, the Lessee shall take possession of the leased property at _____ as is, without warranty, express or implied, on the part of the Government as to condition or fitness for any purpose.

5. The Lessee shall pay rent during the term of this lease at the rate prescribed in Schedule A. The rental accrued at the end of any calendar month, or at the expiration, termination or revocation of this lease, shall be paid to the Government on or before the 10th day thereafter.

6. The Lessee at its own expense shall maintain the property in good condition and repair and make all necessary replacements of components and parts during the term of this lease. All fuel and lubricants shall be furnished by the Lessee. The Lessee shall make no changes or alterations in the prop-

*Delete all lines which do not apply.

**Term shall in no event exceed five years unless approved by the Secretary.

erty except with the consent of the Contracting Officer.

7. The Lessee shall not mortgage, pledge, assign, transfer, sublet, or part with possession of any of the property in any manner to any third party either directly or indirectly, except that this provision shall not preclude the Lessee from permitting the use of the property by a third party with the prior written approval of the Contracting Officer; and the Lessee shall not do or suffer anything whereby any of the property shall or may be encumbered, seized, taken in execution, attached, destroyed, or injured.

8. After taking possession as provided in clause 4, the Lessee shall be solely responsible for the property until it is returned to the Government as provided for in this lease. The property shall be returned in as good condition as when received, reasonable wear and tear excepted. If the Lessee fails to return the property, the Lessee shall pay to the Government the amount specified in Schedule A as the value of the property less the amount determined by the Contracting Officer to represent reasonable wear and tear for the period during which the property was usable. If the Lessee returns the property in other than as good condition as when received, reasonable wear and tear excepted, the Lessee shall pay to the Government the amount necessary to place the property in such condition, or if it is determined by the Contracting Officer that the property cannot be placed in such condition, the Lessee shall pay to the Government the amount specified in Schedule A as the value of the property less both the amount determined by the Contracting Officer to represent reasonable wear and tear for the period during which the property was usable and the scrap value of the property.

9. The Lessee shall take all steps necessary to protect the interest of the Government in the property, and the Contracting Officer may require the Lessee, at its own expense, to take such specific measure, including but not limited to the procurement of insurance, as may be necessary to protect such interest.

10. On or before the last day of the term of this lease the Lessee shall return the property to the Government at _____ or such other place as the Contracting Officer may designate, except that in the event of revocation of this lease the Lessee shall return the property to the Government at the designated place as soon after such revocation as the same can be accomplished. The Lessee shall reimburse the Government immediately, upon presentation of a statement thereof, for all packing and handling costs incurred by the Government in performance of this lease. The Lessee shall also pay all other packing, handling, and transportation charges, including the expenses of reinstalling the property or processing it for extended storage, except that the Lessee's responsibility for return transportation charges shall not exceed the amount required to return the property to the place specifically named above. Further, if the Contracting Officer designates a place to which the property is to be returned other than that specifically named above and if the time required to return the property to such other place exceeds the time required to return the property to the place specifically named above, then the time for which the Lessee must pay rent under clause 5 shall be reduced by the amount of such excess.

11. The property is leased without operators. Any operator deemed incompetent by the Contracting Officer shall be removed from the property.

12. Upon request of the Lessee, the Contracting Officer shall furnish without charge, copies of such drawings, specifications or instructions as the Lessee may require for the operation or repair of the property and as may in the discretion of the Contracting Officer be reasonably available.

13. The Government shall not be responsible for damages to property of the Lessee or property of others, or for personal injuries to the Lessee's officers, agents, servants, or employees, or to other persons, arising from or incident to the use of the property herein leased, and the Lessee shall save the Government harmless from any and all such claims; *provided*, that nothing contained in this Clause 13 shall be deemed to affect any liability of the Government to its own employees.

14. At all times the Contracting Officer shall have access to the job site whereon any of the property is situated, for the purposes of inspecting or inventorying the same, or for the purpose of removing the same in the event of the termination of this lease.

15. Control of Government property: The Manual for Control of Government Property in Possession of Contractors set forth in Appendix B of the Armed Services Procurement Regulation is incorporated by reference and made a part hereof.

16. Officials not to benefit: No member or delegate to Congress, or resident commissioner, shall be admitted to any share or part of the contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract, if made with a corporation for its general benefit.

17. Covenant against contingent fees: The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this lease without liability or in its discretion to require the Lessee to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

18. Disputes: Except as otherwise provided in this lease, any dispute concerning a question of fact arising under this lease which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Lessee. Within 30 days from the date of receipt of such copy, the Lessee may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearings of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive: *Provided*, That, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Lessee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Lessee shall proceed diligently with the performance of the lease and in accordance with the Contracting Officer's decision.

19. Adjustment of rentals—State or local taxation: Except as may be otherwise provided, the rental rates established in this lease do not include any State or local tax on the property herein leased. If and to the extent that such property is hereafter made taxable by State and local governments by Act of Congress, then in such event the lease shall be renegotiated.

20. Except as otherwise specified in this lease, all notices to either of the parties to this lease shall be sufficient if mailed in a sealed postpaid envelope addressed as follows:

To the Lessee:

_____
(Name)
_____
(Address)

To the Government:

_____
(Name)
_____
(Title)
_____
(Address)

21. Definitions: As used throughout this lease, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this lease on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this lease, the authorized representative of a Contracting Officer acting within the limits of his authority.

22. This agreement shall be subject to the written approval of the Secretary of the Army or his duly authorized representative and shall not be binding until so approved.

23. Alterations: The following changes were made in this lease before it was signed by the parties hereto:

In witness whereof, the parties hereto have executed this lease as of the day and year first above written.

THE UNITED STATES OF AMERICA
By _____
_____
(Official title)
_____
(Lessee)
By _____
_____
(Business address)

Two witnesses:

_____
_____
(Address)
_____
_____
(Address)

I _____ certify that I am the Secretary of the Corporation named as Lessee herein, that _____ who signed this lease on behalf of the Lessee was then _____ of said corporation; that said lease was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporation powers.

In witness whereof, I have hereunto affixed my hand and the seal of said corporation this _____ day of _____, 196__.

[CORPORATE SEAL] _____
(Secretary)

### § 605.551 Letter contract.

(a) *Cost-reimbursement type.* Set forth below is a sample form of preliminary contract looking to the execution of a cost-reimbursement type formal contract. The appropriate termination clause should be inserted in Exhibit "A" and attached to the form as an inclosure.

(Letterhead)

---

(Date)

GENTLEMEN:

1. This letter constitutes a contract on the terms set forth herein and signifies the intention of the Department to execute a formal cost-reimbursement type contract with you for the delivery of the supplies and the performance of the services as set forth in the attached enclosure, marked Exhibit "A," upon the terms and conditions therein stated. Said formal contract will be in the form used by the Department for procuring supplies and services of the kind indicated in Exhibit "A." This form will include the clauses required by Federal law, Executive Order, and the procurement regulations and directives applicable to such procurements, which clauses are incorporated herein by reference. Exhibit "A," including the termination clause set forth therein is also made a part hereof.

2. You are directed, upon your acceptance of this letter, to proceed immediately to procure the necessary materials, and to commence the manufacture of the supplies and performance of the services, called for herein, and to pursue such work with all diligence to the end that the supplies may be delivered or services performed within the time specified in Exhibit "A," or if no time is so specified, at the earliest practicable date. In this connection, you shall give advance notification to the Contracting Officer of any proposed subcontract or purchase order hereunder which is either (a) on a cost-plus-a-fixed-fee basis or (b) on a fixed price basis exceeding in dollar amount either $25,000 or five per centum of the amount authorized to be expended hereunder. You shall, in addition, obtain such approvals in respect of commitments hereunder as may be specified in Exhibit "A."

3. You shall enter into negotiation for the execution of the formal contract with the Department without delay. In this connection, you shall submit a quotation of the estimated cost to the Government including fixed fee for the articles and services covered by this letter. Such quotation shall be supported by a cost break-down reflecting the factors outlined in the suggested form enclosed herewith.

4. Unless otherwise provided in Exhibit "A" no payments to you shall be made under this letter except as provided in paragraph 5 below.

5. In the event of a termination of performance of the work or any part thereof under this letter by notice given pursuant to the Termination clause incorporated herein by reference, or in the event that the formal contract is not executed within the time specified in Exhibit "A," or any extension of such time as may be authorized in writing by the Contracting Officer, you shall be paid in accordance with the provisions of such Termination clause, except that no profit will be allowed if the Contracting Officer finds that you have delayed the execution of a formal contract for an unreasonable period; provided, however, that in no event shall the liability of the Government to you hereunder exceed the amount specified in Exihibit "A" or such other amount as may be authorized in writing by the Contracting Officer.

6. Please indicate your acceptance of the foregoing by signing this letter and the enclosed copies thereof. Retain one copy for your files and return the remainder to this office.

7. This contract is entered into pursuant to the provisions of 10 U.S.C. 2304(a)( ) and any required determination and findings have been made.

Sincerely yours,

---

(Contracting officer)

Accepted, as of the date of this letter:

---

---

By ---

(Type above, name and position of officer executing this acceptance)

(b) *Fixed-price type.* Set forth below is a sample form of preliminary contract looking to the execution of a fixed-price formal contract. The appropriate termination clause should be inserted in Exhibit "A" and attached to the form as an inclosure.

(Letterhead)

---

(Date)

GENTLEMEN:

1. This letter constitutes a contract on the terms set forth herein and signifies the intention of the Department to execute a formal fixed price contract with you for the delivery of the supplies and the performance of the services as set forth in the attached enclosure, marked Exhibit "A," upon the terms and conditions therein stated. Said formal contract will be in the form used by the Department for procuring supplies and services of the kind indicated in Exhibit "A." This form will include the clauses required by Federal law, Executive Order, and the procurement regulations and directives applicable to such procurements, which clauses are incorporated herein by reference. Exhibit "A," including the termination clause set forth therein, is also made a part hereof.

2. You are directed upon your acceptance of this letter, to proceed immediately to procure the necessary materials, and to commence the manufacture of the supplies and performance of the services, called for herein, and to pursue such work with all diligence to the end that the supplies may be delivered or services performed within the time specified in Exhibit "A," or if no time is so specified, at the earliest practicable date.

3. You shall enter into negotiation for the execution of the formal contract with the Department without delay. In this connection, you shall submit a firm quotation for the articles and services covered by this letter. Such quotation shall be supported by a cost breakdown reflecting the price factors outlined in the suggested form enclosed herewith.

4. Unless otherwise provided in Exhibit "A" no payments to you shall be made under this letter except as provided in paragraph 5 below.

5. In the event of a termination of performance of the work or any part thereof under this letter by notice given pursuant to the termination clause incorporated herein by reference, or in the event that the formal contract is not executed within the time specified in Exhibit "A," or any extension of such time as may be authorized in writing by the Contracting Officer, you shall be paid in accordance with the provisions of such Termination clause, except that no profit will be allowed if the Contracting Officer finds that you have delayed the execution of a formal contract for an unreasonable period; provided, however, that in no event shall the liability of the Government to you hereunder exceed the amount specified in Exhibit "A" or such other amount as may be authorized in writing by the Contracting Officer.

6. Please indicate your acceptance of the foregoing by signing this letter and the enclosed copies thereof. Retain one copy for your files and return the remainder to this office.

7. This contract is entered into pursuant to the provisions of 10 U.S.C. 2304(a)( ) and any required determination and findings have been made.

Sincerely yours,

---

(Contracting officer)

Accepted, as of the date of this letter:

---

By ---

---

(Type above, name and position of officer executing this acceptance)

### § 605.552 Government's order and contractor's acceptance (DA Form 47).

(a) *General.* The following are authorized for use under the conditions set forth in paragraph (b) of this section for negotiated purchases:

(1) Government's Order and Contractor's Acceptance (DA Form 47);

(2) Continuation Sheet (Supply Contract) (Standard Form 36);

(3) General Provisions (Supply Contract) (Standard Form 32), only when procuring supplies, and

(4) Any other form containing contract provisions prescribed by Subchapter A, Chapter I of this title or this subchapter.

(b) *Conditions for use.* (1) DA Form 47 and Standard Form 36 (together with authorized contract provisions) may be used for negotiated purchases of supplies wherein (i) price quotations are subject to daily fluctuation, (ii) the amount of the purchase is less than $100,000, and (iii) no special contract provisions are required which in the particular case would make use of the form inappropriate.

(2) DA Form 47 calls for execution by both the contracting officer and the contractor. When so executed, it should be a complete content in itself; that is, without reference to separate documents such as proposals or quotation forms.

(3) When completed and signed by the contracting officer, and forwarded to the contractor, DA Form 47 constitutes an offer by the Government to contract on the terms set forth therein. All applicable blanks should be completed at the time the form is forwarded to the contractor. Where a particular item is not known at the time the form is forwarded to the contractor (for example, "Ship To" or "Schedule of Deliveries"), the blanks should be filled in with appropriate language indicating how such information will be subsequently furnished.

(4) When signed by the contractor in the space marked "Contractor's Acceptance" and returned to the Government within the time allowed, the form becomes a binding contract if the contractor has made no changes in the form by way of deletion, interlineation, or addition (thus departing from the terms of the offer). Contractors should be instructed to inform the contracting officer of any changes which appear to be re-

quired so that amendments may be made and initialed by both parties, or a corrected DA Form 47 issued.

(5) Methods of presenting invoices or vouchers, and of packing, marking, and shipping shall be as specified in any space on the face of the form, or on a continuation sheet.

(6) Standard Form 32 (General Provisions) and additional general provisions shall be incorporated in accordance with the conditions of § 16.101–2 of this title and § 605.101–2 of this chapter.

**§ 605.553 Academic Instruction Contracts.**

**§ 605.553–1 Basic Agreement for Academic Instruction (DA Form 357).**

(AR 350–200.)

**§ 605.553–2 Order Form To Enter Into Contract for Academic Instruction (DA Form 358).**

(AR 350–200.)

**§ 605.553–3 Basic Agreement for Off-Duty Academic Instruction (DA Form 588).**

(AR 621–5.)

**§ 605.553–4 Order Form To Enter Into Contract for Off-Duty Academic Instruction (DA Form 589).**

(AR 621–5.)

**§ 605.554 Service Order for Household Goods (DD Form 1164).**

(See AR 743–455.)

**§ 605.556 Facilities Contract Form (April 1961).**

NOTE: The text of § 605.556 remains unchanged.

## Subparts F—N [Reserved]

## Subpart O—General Policy

**§ 605.1501 Deviations from approved forms.**

**§ 605.1501–1 General.**

A change in the size of a Standard, DD or DA Form constitutes a deviation.

**§ 605.1501–2 Translations.**

To facilitate procurement in foreign countries, authority is granted to reproduce a translation of any form. Either a bilingual form may be utilized, or the translation may be printed as a separate form. When the foreign language translation is printed as a separate form it shall be attached to its corresponding approved form. In either instance both the foreign language translation and the approved English text shall contain a statement that in the event of a disagreement in the text of the English and foreign translations, the English text shall govern.

**§ 605.1502 Supply of forms.**

**§ 605.1502–1 Forms stocked by Adjutant General publications centers.**

Unless otherwise stated, the procurement forms listed in the APP are procured by The Adjutant General and are stocked in Adjutant General publications centers. Requisitions for forms shall be submitted through normal publications supply channels (AR 310–1). Most procurement forms are printed either as cut sheet forms or as multiple part manifold forms. Department of the Army Pamphlet 310–2 lists by category and number all blank forms prescribed for use throughout the Department of the Army. When both cut sheets and reproducible masters are stocked, to distinguish requisitions for the master from cut sheet forms, the word "Stencil," "Hecto," or other appropriate word shall be used. For example, Standard Form 21 (Stencil).

**§ 605.1502–2 Cut sheet forms.**

An example of a cut sheet is the Standard Form 30 (Invitation and Bid) which is printed on tissue paper. This weight of paper permits the preparation of an original and nine carbon copies at one time. Another example is the Standard Form 32 (General Provisions), which also is printed as a cut sheet. In this case, however, because no typing is required and because the form is printed on both sides of the paper, a heavier weight paper is used.

**§ 605.1502–3 Multiple part manifold forms.**

An example of a multiple part form is the DD Form 1155 (Order for Supplies or Services). This form is a 10-part, carbon interleaved, manifold form of snap-out construction.

**§ 605.1502–4 Forms not stocked by adjutant general publications centers.**

Certain forms of limited application are not printed or stocked by The Adjutant General and local reproduction is authorized in Department of the Army Pamphlet 310–2.

**§ 605.1502–5 Reproducible masters.**

(a) *General.* The Adjutant General generally does not stock reproducible masters of procurement forms. He may, however, authorize local procurement of reproducible masters where the head of procuring activity has approved use of reproducible masters.

(b) *Excessive duplication and distribution of contractual documents prohibited.* It is the policy of the Department of the Army that the number of copies of contractual documents for any particular procurement be kept to a minimum. Copies shall be limited to those required for essential administration and transmission of contractual information. Excessive duplication and distribution is prohibited. It is the responsibility of all echelons of command to insure that this policy is enforced.

(c) *When required.* Some installations may be unable to utilize the multiple part forms or may require more than 10 copies, including the original, of cut sheet forms. When authorized as prescribed in this section reproducible masters (hectograph, stencil, offset) may be utilized to produce multiple copies.

(d) *Requests and justification.* Requests for the use and local procurement of reproducible masters shall be submitted by letter to the head of procuring activity concerned. Requests shall include the proposed distribution list of the form together with the number of copies required for each addressee. The requesting installation must justify the requirement for each copy. The requesting installation shall state also the number of procurements for which the form is used in a particular period.

(e) *Approval of requests.* Blanket approval for the use of reproducible masters shall not be given. Requests shall be approved on an installation basis. When the head of procuring activity concerned is satisfied that the requirements of this section have been met, he may approve the use of reproducible masters. Such approvals shall be forwarded to The Adjutant General, Department of the Army, Washington D.C., 20310, Attn: Chief, Publication Branch for authority to locally procure reproducible masters in compliance with AR 310–1. Except where the reverse side of a form is stocked (i.e., Standard Forms 30, 33, and DD 1155), approval for local procurement of reproducible masters of a form also includes approval of authority to procure reproducible masters of the reverse of the form. Where General Provisions or other information is preprinted on the back of a form and the back of the form is not stocked by adjutant general publications centers, reproducible masters of the back of the form shall be procured and used as runoff paper for reproducing multiple copies of the face of the form from reproducible masters.

(f) *Use.* The contracting officer at installations authorized to procure and use reproducible masters shall insure that such masters do not deviate from the approved format.

(g) *Quantities procured.* Factors to be considered by contracting officers in determining quantities of reproducible masters to be procured shall include current operational needs and economical procurement. As a guide, installation stocks normally should not exceed a 6-month supply level.

**§ 605.1502–6 Preprinted backs.**

The terms and conditions of the Invitation for Bids which appear as the back of Standard Forms 30 and 33 are identical and have been printed as one standard back. The standard backs shall be used as runoff paper when reproducing multiple copies of the face of the forms from reproducible masters. Supplies of the backs of Standard Forms 30, and 33 and DD Form 1155 are available from adjutant general publications centers.

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## PART 606—SUPPLEMENTAL PROVISIONS

20. In § 606.103–3(b), subparagraph (2) is revised; and new Subparts B and H are added, as follows:

**§ 606.103–3 Distribution instructions.**

* * * * *

(b) *Other documents for audit agencies.* * * *

(2) Within 5 days after receipt from the contractor, the contracting officer shall forward two copies of all documents enumerated hereafter which are either required by the contract or specifically required by the contracting officer

thereunder; provided, the contract is of the type listed in paragraph (a)(2)(iv) of this section. One copy shall be returned by the audit agency at the time of submission of the audit report, or when it is determined that an audit is not to be initiated; the other copy shall be retained for audit agency files. These documents include—

(i) Statements of costs;

(ii) Settlement proposals relating to prime contract and subcontract terminations as provided in § 8.207 of this title (including inventory and accounting information). Termination settlement proposals in connection with lump sum or unit price architect-engineer contracts which provide for settlement on a percentage-of-completion basis and which are terminated for the convenience of the Government shall not be distributed; and

(iii) Other related information necessary for an understanding of the foregoing.

* * * * *

Subpart B—Contract Award Approvals

Sec.


606.201 Contract review.
606.202 Secretarial preaward review and notation.
606.203 Preaward submissions.
606.204 Approval of awards of contracts.
606.204–1 General.
606.204–2 Personal and professional services.
606.204–3 Construction or rehabilitation of installations, and repairs and utilities.
606.204–4 Architect-engineer contracts.
606.204–5 Utility services contracts.
606.204–6 Government-owned contractor-operator plants (GOCO).
606.204–7 Management engineering contracts.
606.204–8 Leases of Government personal property.


AUTHORITY: §§ 606.201 to 606.204–8 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

## Subpart B—Contract Award Approvals

### § 606.201 Contract review.

At least one competent person, whether or not assigned to the contracting office, shall be assigned the duty of reviewing in an advisory capacity all proposed contracts except those for purchases of $2,500 or less. This review shall be conducted prior to award of a contract or prior to contract approval above the contracting officer level when such approval is required. The requirement for review shall apply to both advertised and negotiated procurements, regardless of the level of procuring authority, and shall be for the purpose of insuring that (a) the clauses and conditions of the contract comply with the principles of good procurement and (b) the interest of the Government is adequately protected. To the extent that the review required herein is impractical, this provision may be waived by a head of procuring activity upon a determination in writing made to that effect.

### § 606.202 Secretarial preaward review and notation.

Information relative to proposed procurements for certain supplies, equipment, research and development projects, or for certain classes thereof shall be submitted for Secretarial preaward review and notation. Items for which information is to be submitted will normally be listed in the DA Circular 715–2-series; the information to be submitted is prescribed in § 606.203. In addition to the listed items all other proposed awards which may be controversial, have sensitive aspects, or involve major policy decisions shall be submitted; the latter shall be submitted when requested by the Secretariat or determined by the procuring agency that they are within this category.

### § 606.203 Preaward submissions.

(a) Requests for preaward review and notation shall—

(1) Be accompanied by 5 copies of the information required in the following appropriate subparagraphs;

(2) Be submitted so as to normally allow 15 days for review at Secretarial level;

(3) Bear appropriate security classification; submissions (other than for formal advertising) which are not otherwise classified shall be marked "For Official Use Only" (AR 345–15);

(4) Be concise, complete, and specific; and

(5) Be limited to that necessary to present sufficient details on particular items. Ordinarily, bulky contract file documentation such as copies of contracts, requests for proposals, and reports by price analysts and technical personnel or auditors shall not be submitted.

(b) Preaward review information to be submitted for negotiated procurements is outlined below; any item not applicable to a specific procurement shall be omitted in a submission for that procurement. Submissions for formally advertised procurements shall adhere to this outline to the extent feasible.

OUTLINE

(i) Description of supplies, work or services being procured.

*a.* Material Program Procurement Schedule item number (if PEMA) or Approved Project Title and number (if R&D).

*b.* Quantity or term of contract.

*c.* Type and source of funds.

(ii) Name and address of proposed contractor.

*a.* Large or small business (indicate amount of set aside).

*b.* Labor surplus area classification (indicate amount of set aside).

*c.* Location of work performance.

(iii) Negotiations conducted under authority of 10 U.S.C. 2304(a)(__), authorized by D&F dated _____, signed by _____.

(iv) Type of contract; justification if other than firm-fixed-price.

*a.* Justification for price redetermination type contract.

*b.* Description and discussion of proposed incentive provisions, if any.

(v) Method of source selection.

*a.* Number of sources solicited.

*b.* Number of bids or proposals received.

*c.* Justification for sole source solicitation.

*d.* Names of firms submitting bids or proposals.

*e.* Method of bid or proposal evaluation.

*f.* Basis for selection of proposed contractor.

*g.* Statement of contractor responsibility (ASPR 1–903, 1–904).

(vi) Unit price, total price and profit, or total cost and fee (target or fixed).

*a.* Summary of comparison of prices including Government cost estimates and historical cost and price experience as applicable.

*b.* Statement of basis for contracting officer's determination of reasonableness of price.

*c.* Summary analysis of profit or fee considerations.

(vii) Evaluation of proposed contractor's history of, and plan for:

*a.* Cost management;

*b.* Quality assurance; and

*c.* Adherence to performance and delivery schedules.

(viii) Make or buy considerations.

*a.* Major subcontractors, location, items, value and types of contracts.

*b.* Percentage of subcontract value to total price.

(ix) Summary of extent of Government-furnished facilities and special tooling.

(x) Discussion of any ASPR or APP deviations approved or requested.

(xi) Outline all sensitive or controversial aspects of award.

(xii) Other comments which support the proposed action.

(c) Where the proposed procurement is to be placed as a letter contract the following information shall be submitted in addition to that in paragraph (b) of this section:

(i) Statement as to the necessity and advantage to the Government of the use of the proposed letter contract;

(ii) Duration of letter contract in number of days from date of execution;

(iii) Amount of letter contract;

(iv) Total estimated definitive contract amount, including estimated cost of (A) facilities, (B) special tooling equipment, etc., (C) activation or reactivation, (D) training of personnel, and (E) subcontracting;

(v) Type of definitive contract proposed (fixed-price, cost-plus-a-fixed-fee, etc.);

(vi) List of all standard optional clauses which will be made a part of the definitive contract, including (A) Patent clauses, (B) Copyright clause, (C) Special Tooling clause, (D) Government Property clause, (E) Facility agreement, (F) Price Redetermination clause (including type of clause and percentage of upward revision, if available); and

(vii) Statement that the minimization of risk, through inclusion of the Price Redetermination clause, will be given due consideration in determining the rate of profit to be allowed, with further attention given to the amount of each of the following as compared to the total estimated contract amount: (A) material, (B) subcontracting, (C) purchased parts, and (D) "off-the-shelf" items.

### § 606.204 Approval of awards of contracts.

### § 606.204–1 General.

Subject to any further instructions which may be issued by the head of procuring activity, awards of contracts (including modifications) may be made by contracting officers without the approval of the award by higher authority, except as set forth in the following sections and in § 606.202.

**§ 606.204–2 Personal and professional services.**

(a) Because of statutory provisions (see § 593.1001 of this chapter) Secretarial action is required before an award may be made of certain contracts (see §§ 593.1003–2 and 593.1006 of this chapter) for the temporary or intermittent services of experts, consultants, or stenographic reporters. Procedures for submission for Secretarial action are set forth in Subpart J, Part 593 of this chapter. If the Secretary considers the proposed action proper he may either make the necessary determinations and approve the proposed award, or he may make the necessary determinations and authorize the head of procuring activity concerned to approve the award in the submitted case. A submission for Secretarial action, however, shall be made on the basis that the Secretary may desire to take the necessary action and approve the proposed award at the same time.

(b) As to certain categories of services, the Secretary makes the determinations required by statute as of the beginning of each fiscal year and delegates the authority to approve awards of contracts for such services. This delegated authority to approve awards of contracts in the specified categories is given annually to certain heads of procuring activities. See § 593.1003–3(b) of this chapter for procedure for submittal to the head of procuring activity. Thus, when a head of procuring activity has been authorized to approve an award of a contract for one or more of such categories, submission to the Secretary before award, as described in paragraph (a) of this section, is not required. The categories of services for which the Secretary makes annual determinations are set forth below:

(1) Contracts for personal services of alien specialists necessary to meet the requirements of Defense Scientists Immigration Program—A (DEFSIP–A), (formerly "Project Paperclip"), and Defense Scientists Immigration Program—B (DEFSIP–B); (formerly "Project 63");

(2) Contracts for personal services to be performed outside the United States of experts and consultants in the field of radio announcing in Asiatic languages, geodetics, anthropology and chemical analysis;

(3) Contracts for stenographic reporting services, where the services of qualified Government personnel are not available, in connection with hearings before the New York Industrial Personnel Security Hearing Board, the functions of the Inspectors General, and hearings before claims and appeals boards of procuring activities;

(4) Contracts for the personal services of actors, narrators, and other technical and professional personnel (excluding organizations thereof) necessary in connection with motion picture or television production; and

(5) Contracts for personal services outside the United States of experts or consultants in the field of law.

(c) See § 593.1005 of this chapter for procedure for submittal to the addressee in § 590.150(b)(8) of this chapter of certain contracts which may involve personal services aspects.

**§ 606.204–3 Construction or rehabilitation of installations, and repairs and utilities.**

Awards of contracts and modifications of contracts for construction or rehabilitation of installations, and repairs and utilities do not require approval by higher authority, unless otherwise required by the head of procuring activity.

**§ 606.204–4 Architect-engineer contracts.**

(a) *General.* An architect-engineer (A–E) contract for the production and delivery of designs, plans, drawings, and specifications is referred to as one for Title I services; an A–E contract for the supervision and inspection of construction is referred to as one for Title II services. Authority to contract for Title I and Title II services in the Department of the Army is limited to such procuring activities as have been specifically delegated authority to do so in an annual delegation from the Assistant Secretary of the Army (Installations and Logistics). Responsibility for implementation of DOD Directives pertaining to uniform standards for the selection of A–E firms for professional services and uniform standards for the employment and payment of A–E services has been assigned to the U.S. Army Corps of Engineers.

(b) *Selection of contractors.* The selection of a prospective A–E contractor is governed by the procedures set forth in OCE letters ENGMC–KC, Subject: Revised Procedures for the Selection of Architect-Engineers, Military Construction Program, September 27, 1962, and February 21, 1963. These letters and any additional implementation of DOD Directive 4105.56 will be distributed by the Chief of Engineers to procuring activities having a need therefor. See the OCE publication entitled "Uniform Standards for the Employment and Payment of Architect-Engineer Services." Submittals to the addressee in § 590.150(b)(1) for approval pursuant to Army implementation of DOD Directive 4105.56 shall be made, through the Office, Chief of Engineers, in the following cases:

(1) Before final action is taken in the selection of a proposed contractor to render either Title I or Title II services, or both, if the estimated contract price exceeds $500,000 (the submittal shall contain a statement of the selection proposed together with information in support thereof and sufficient facts to show compliance with the Army implementation of applicable DOD Directives (paragraph (a) of this section));

(2) In any case in which the price of an existing A–E contract for Title I or Title II services, or both, is increased from an amount of $500,000 or less to more than $500,000 (in such case the submittal shall contain a résumé of actions taken which show compliance with Army implementation of pertinent DOD Directives (paragraph (a) of this section), reasons for the proposed increase, and data showing the total amount of Army A–E contract awards to the contractor during the current calendar year);

(3) In any other case where, pursuant to the DOD Directives mentioned in paragraph (a) of this section (as implemented by the Corps of Engineers) approval above the level of head of procuring activity is required (the submittal in such cases will contain a résumé of the significant facts showing compliance with Army implementation of pertinent DOD Directives (paragraph (a) of this section), reasons for the action proposed to be taken, and data showing the total amount of Army A–E contract awards to the contractor during the current and preceding calendar year).

(c) *Approval of awards.* If the Secretarial delegation imposes a dollar limitation upon award approval authority, the head of procuring activity concerned who is subject to such limitation shall submit any proposed award of A–E contract for either Title I or Title II services, or both, to the addressee in § 590.150(b)(6) of this chapter, through the Office, Chief of Engineers, in the following instances:

(1) When the contract price for either Title I or Title II services, or both, exceeds the dollar limitation; or

(2) Prior to increasing an existing A–E contract price from an amount equal to or less than the dollar limitation to more than such limitation; provided, however, that award approval of a modification at Secretarial level is not required, regardless of amount, if the proposed modification pertains to either (i) a contract previously approved at such level or (ii) a contract having a previous modification which has been so approved and in either case contains no material deviation from provisions previously approved.

(d) *Coordination.* In order to provide for uniform application of criteria for A–E contracts within the Department of the Army, any procuring activity (except the Corps of Engineers) granted authority to contract for A–E services shall coordinate plans for entering into such contracts with the appropriate U.S. Army Engineer Division or District prior to selection of the prospective contractor and to negotiation of the proposed contract.

(e) *Master planning.* Authority to negotiate and award A–E contracts relating to Master Planning is restricted and is subject to the specific limitations and exclusions set forth in the annual delegation of authority referred to in paragraph (a) of this section.

(f) *Pricing of A–E contract for nonpersonal services.* Compensation for A–E services is subject to the following:

(1) The consideration paid to an A–E under any fixed-price type contract for Title I services may not be more than 6 percent of the estimated cost of the public work or utilities project (or portion thereof) for which the A–E undertakes to perform such services. The consideration which may be paid under a cost-reimbursement type contract for Title I services is subject to the limitations set forth in §§ 3.405–4(c) and 3.405–5(c)(2) of this title, whichever is applicable. When an A–E contract calls for both Title I services and Title II

services, the consideration to be paid the contractor for Title I services shall be separately stated therein.

(2) The A–E contract price shall be negotiated in accordance with the applicable parts and related exhibits of the publication "Uniform Standards for the Employment and Payment of Architect-Services," issued by the U.S. Army Corps of Engineers.

(g) *A–E contract for personal services.* A personal services contract with an individual for A–E services (see § 593.1004(a) of this chapter) is subject to the requirements set forth in §§ 593.-1003–4 and 593.1003–5 (c), (d), and (e) of this chapter. Award approval by the head of procuring activity shall be obtained in the same manner as provided in § 593.1003–3(b) of this chapter.

**§ 606.204–5 Utility services contracts.**

(a) *Procurement of power, gas, water.* The Chief of Engineers, acting for the Secretary of the Army, is the Department of the Army Power Procurement Officer and in this capacity is responsible for the administration of the purchase and sale of utilities services, and for policies, engineering, rates, and legal sufficiency in connection with all utility services transactions and contracts relating thereto in which the Department of the Army has a monetary interest. The purchase of utility services is governed by AR 420–41 and AR 420–62, which define the term "utilities services" and prescribe the required approvals for utilities services contracts and modifications. All contracts and modifications which, under the provisions of the above regulations, are subject to the approval of the Army Power Procurement Officer or his authorized representative, shall be submitted to the Chief of Engineers, ATTN: Army Power Procurement Officer, together with the following information:

(1) Complete load data;

(2) Estimated maximum demand in kilowatts;

(3) Estimated average monthly demand in kilowatts;

(4) Estimated average monthly usage in kilowatt-hours;

(5) Estimated power factor;

(6) Similar applicable information for estimated usage of water, gas, sewage disposal, and steam contracts; and

(7) Any other available pertinent information that will facilitate review, including but not limited to, analysis of available rates and charges, supporting data for estimates of demand and use, and difficulties experienced in negotiation.

(b) *Procurement of Communications services.* The Chief Signal Officer, acting for the Secretary of the Army, is responsible for establishing policy, furnishing technical advice and assistance, and providing overall guidance pertaining to the procurement, use, and control of leased communication circuits, equipment, and services. Other responsibilities for procurement of communication services are as specified in AR 105–21, AR 105–22, and SR 105–20–3.

**§ 606.204–6 Government-owned contractor-operator plants (GOCO).**

Heads of procuring activities are authorized to approve awards of contracts and modification to contracts for the maintenance or operation of or for manufacture in GOCO plants. This authority may be redelegated to the extent deemed necessary without authority of further redelegation.

**§ 606.204–7 Management engineering contracts.**

(a) Management engineering services and activities are explained in paragraph 2, AR 1–110. A contracting officer shall not execute a contract (or modification) for management engineering services prior to receipt, through channels, of Secretarial approval of the project. In the event that proposed contracts and modifications to contracts for such services are forwarded to higher authority in connection with obtaining Secretarial approval of the project as required by paragraph 7, AR 1–110, such proposed contracts or modifications to contracts shall be submitted through the Comptroller of the Army to the Secretary concerned.

(b) In the event that proposed contracts and modifications to contracts for management engineering services are forwarded to the Secretary for contract award approval because (1) the services being procured are of a personal services nature (§ 606.204–2), or (2) Secretarial approval of award is required or desired for other reasons, such proposed contracts or modifications to contracts shall be submitted to the addressee in § 590.150(b)(8) of this chapter.

(c) AR 1–110 is not applicable to the employment of experts or consultants on a per diem basis (§ 606.204–2).

**§ 606.204–8 Leases of Government personal property.**

Proposed leases and modifications to leases of Government personal property, except as otherwise provided by specific delegation of the Secretary, shall be submitted for approval to the addressee listed in § 590.150(b)(8) of this chapter.

Subpart H—Procedure Under the Gratuities Clause

Sec.

606.801 Purpose.
606.802 Reporting requirements.
606.803 Referral for hearing.
606.804 Delegation of authority and hearing procedures.
606.805 Post-hearing actions.

AUTHORITY: §§ 606.801 to 606.805 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

## Subpart H—Procedures Under the Gratuities Clause

**§ 606.801 Purpose.**

This subpart establishes procedures under which the Department of the Army will exercise the powers conferred upon the Secretary by 10 U.S.C. 2207 and § 30.4 of this title with respect to hearings, findings, termination of contracts, and imposition of exemplary damages in instances under government contracts where the contractor, his agent, or other representatives may have offered or given any gratuity to an officer, official, or employee of the Department of the Army to obtain a contract or favorable treatment in awarding, amending, or making of determinations concerning the performance of a contract in violation of the Gratuities clause (§ 7.104–16 of this title).

**§ 606.802 Reporting requirements.**

(a) Any information received by military or civilian personnel of the Department of the Army which indicates that action under the Gratuities clause may be appropriate shall be forwarded for evaluation and appropriate action through channels to the military commander having jurisdiction over the contract (exempt report, par. 39*n*, AR 335–15).

(b) If evaluation indicates that a hearing under the Gratuities clause may be appropriate, the military commander shall forward the facts promptly and directly to the head of procuring activity concerned. Information initially forwarded to the head of procuring activity shall include:

(1) Name and address of the contractor together with full information as to form of organization, including names and addresses of principals;

(2) Complete contract data including number, date, estimated day of completion of performance, general description of supplies or services procured, amount, status of performance and of payment under the contract, urgency of requirements, and availability of the supplies or services from other sources;

(3) Summary of the facts concerning the suspected violation, including names and addresses, dates, and references to documentary evidence available; and

(4) Status of the investigation, if any, with an estimated date on which it will be submitted.

(c) A complete report of investigation, if required, shall be submitted as soon as practicable (exempt report, par. 39*t*, AR 335–15). In connection with the investigation, care must be taken to preserve the admissibility of documentary evidence and exhibits, bearing in mind that action adverse to a contractor under the Gratuities clause is subject to review by a competent court. Copies or descriptions shall be utilized in the report where necessary or desirable to preserve the chain of custody.

(d) The head of procuring activity shall forward such information upon its receipt, together with his recommendations, through channels to the Director of Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics). Pending final action on the matter, the head of procuring activity shall submit to the Director of Procurement for approval any proposed termination, setoff, or withholding action. Pending this determination, and when a hearing before the Board is recommended the contracting officer administering the contract of contracts involved shall withhold from payments otherwise due to the contractor a sum equivalent

to ten times the estimated costs of the gratuities alleged to have been provided by the contractor in violation of the Gratuities clause.

§ 606.803 Referral for hearing.

(a) The Director of Procurement shall determine whether the matter will be referred for a hearing. When it is determined that a matter will be referred for hearing, the Director of Procurement will advise in writing the Chairman of the Armed Services Board of Contract Appeals (Board), requesting that he cause the case to be heard by a division of the Board. The request for hearing shall contain sufficient information concerning the case to permit the Board Recorder to provide due notice to the contractor.

(b) The Director of Procurement shall furnish the files in the matter to The Judge Advocate General, ATTN: Chief, Contract Appeals Division, for use of the Government counsel.

§ 606.804 Delegation of authority and hearing procedures.

(a) The division of the Board designated under § 606.803(a) is delegated the authority to take the actions set out in paragraph 3 of § 30.4 of this title in accordance with the procedures contained in that appendix.

(b) Each party may be represented in the hearing by counsel who shall be the representative of record. Counsel for the Government shall be furnished by The Judge Advocate General from officers of The Judge Advocate General's Corps assigned to the Contract Appeals Division, Office of The Judge Advocate General.

(c) The Board Recorder shall arrange for a verbatim record of the proceedings to be transcribed in the number of required copies. He shall furnish copies of transcripts to contractors concerned upon payment of reasonable costs.

§ 606.805 Post-hearing actions.

(a) Findings and recommendations of the designated division, as required by paragraph 14, § 30.4 of this title, shall be forwarded expeditiously to the Assistant Secretary of the Army (Installations and Logistics) for his action.

(b) The Director of Procurement shall promptly furnish the contractor with a copy of the Secretarial decision. Advice concerning the Secretarial action will be forwarded to the head of the procuring activity concerned who shall furnish notification and instructions, as required to the contracting officer without delay.

(c) At the conclusion of the case, the Board Recorder shall forward all files in the matter to the Office of The Judge Advocate General which shall serve as the office of record for cases brought for hearing under 10 U.S.C. 2207. With the approval of the Director of Procurement, the Office of Record may make available to persons properly and directly concerned matters of official record pertaining to the case.

J. C. LAMBERT,
*Major General, U.S. Army,*
*The Adjutant General.*

[F.R. Doc. 63-11204; Filed, Oct. 23, 1963; 8:48 a.m.]



# Title 7—AGRICULTURE

## Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

[958.308 Amdt. 1]

## PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

### Limitation of Shipments

*Findings.* (a) Pursuant to Marketing Agreement No. 130 and Order No. 958 (7 CFR Part 958), regulating the handling of onions grown in the production area defined therein, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of recommendations and information submitted by the Idaho-Eastern Oregon Onion Committee, established pursuant to the said marketing agreement and order, and other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that (1) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (2) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (3) reasonable time is permitted under the circumstances, for such preparation, and (4) information regarding the committee's recommendation has been made available to producers and handlers in the production area.

*Order, as amended.* Section 958.308 (28 F.R. 8192) is hereby amended to read as follows:

§ 958.308 Limitation of shipments.

Beginning on the effective date of this amendment through June 30, 1964, no person shall handle any lot of yellow or white varieties of onions grown in the production area unless such onions meet the requirements of paragraph (a) of this section, or unless such onions are handled in accordance with paragraphs (b), (c), or (d) of this section.

(a) *Minimum grade and size requirements*—(1) *Yellow varieties.* U.S. No. 1 grade, 2 inches minimum diameter.

(2) *White varieties.* U.S. No. 1 grade, 1½ inches minimum diameter; or U.S. No. 2 grade, 1 inch minimum to 2 inches maximum diameter, if packed separately.

(b) *Special purpose shipments.* The minimum grade and size requirements set forth in paragraph (a) of this section shall not be applicable to shipments of onions for any of the following purposes:

(1) Planting;
(2) Livestock feed;
(3) Charity;
(4) Dehydration;
(5) Canning; and
(6) Freezing.

(c) *Safeguards.* Each handler making shipments of onions for dehydration, canning, or freezing pursuant to paragraph (b) of this section shall:

(1) First, apply to the committee for, and obtain a Certificate of Privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (b) of this section;

(3) Bill each shipment direct to the applicable processor; and

(4) Forward one copy of such report to the committee office, and two copies to the receiver for signing and returning one copy to the committee office. Failure of a handler or receiver to report such shipments by promptly signing and returning the applicable report to the committee office shall be cause for cancellation of such handler's Certificate of Privilege and/or the receiver's eligibility to receive further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideration.

(d) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, one ton of onions any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds one ton of onions.

(e) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Grades of Onions (§§ 51.2830–51.2850 of this title). Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 130 and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated October 18, 1963, to become effective October 28, 1963.

FLOYD F. HEDLUND,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F.R. Doc. 63-11239; Filed, Oct. 23, 1963; 8:47 a.m.]

## PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

### Free and Restricted Percentages for 1963–64 Fiscal Year

Notice was published in the FEDERAL REGISTER of October 9, 1963 (28 F.R. 10822), that there was under consideration the proposed establishment of a free percentage of 81 percent and restricted percentage of 19 percent for Oregon and Washington filberts during the 1963–64 fiscal year which began on August 1, 1963. The proposed percentages are

based on recommendations of the Filbert Control Board and other available information and would be established pursuant to the provisions of amended Marketing Agreement No. 115 and Order No. 982 (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to file written data, views, or arguments concerning the proposal with the Department for consideration prior to establishment of percentages. The prescribed time has elapsed and no such communications have been received.

Pursuant to § 982.41, and after consideration of all relevant matters presented, including those in the notice, it is hereby found that limiting the quantity of merchantable filberts which may be handled during the 1963–64 fiscal year as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, free and restricted percentages for merchantable filberts during the 1963–64 fiscal year are established as follows:

**§ 982.213 Free and restricted percentages for merchantable filberts during the 1963–64 fiscal year.**

The following percentages are established for merchantable filberts for the fiscal year which began August 1, 1963:

Free percentage..... —81 percent
Restricted percentage..... —19 percent

It is hereby further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that: (1) The relevant provisions of said amended marketing agreement and this part require that free and restricted percentages established for a particular fiscal year shall be applicable to all filberts handled during such year; and (2) the current fiscal year began on August 1, 1963, and the percentages herein established will automatically apply to all such filberts beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 18, 1963.

FLOYD F. HEDLUND,
*Director,*
*Fruit and Vegetable Division.*

[F.R. Doc. 63–11262; Filed, Oct. 23, 1963; 8:48 a.m.]

# Title 41—PUBLIC CONTRACTS

## Chapter 5B—Public Buildings Service, General Services Administration

## PART 5B–1—GENERAL

## Subpart 5B–1.3—General Policies

New Subpart 5B–1.3 (General Policies) is added as follows:

Sec.
5B–1.315 Use of liquidated damages provisions in procurement contracts.
5B–1.315–2 Policy.

AUTHORITY: §§ 5B–1.315 and 5B–1.315–2 issued under sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 41 CFR 5–1.101(c), 28 F.R. 4559.

**§ 5B–1.315 Use of liquidated damages provisions in procurement contracts.**

**§ 5B–1.315–2 Policy.**

(a) The rate of liquidated damages to be stipulated in a construction contract shall bear a realistic relationship to the probable damages the Government may be expected to suffer, and shall take into consideration the added costs of contract administration and supervision, interest on the Government's investment, and the net rental the Government would be obligated to pay as a result of construction not being completed on the scheduled date.

(b) The following Central Office and Regional personnel are designated to approve, where justified, the omission of a liquidated damages provision from a construction contract: Assistant Commissioner, Office of Design and Construction; Regional Administrators.

(c) Omission of a liquidated damages provision from a construction contract may be justified when construction consists of repairs, alterations, or improvements, any delay in the completion of which would still permit the occupying agency to continue its normal function in an uninterrupted manner and which would not result in added expense to the Government.

*Effective date.* These regulations are effective November 18, 1963.

Dated: October 17, 1963.

R. T. DALY,
*Commissioner,*
*Public Buildings Service.*

[F.R. Doc. 63–11246; Filed, Oct. 23, 1963; 8:47 a.m.]

# Title 9—ANIMALS AND ANIMAL PRODUCTS

## Chapter I—Agricultural Research Service, Department of Agriculture

### SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

## PART 78—BRUCELLOSIS IN DOMESTIC ANIMALS

## Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis areas is hereby amended to read as follows:

**§ 78.13 Modified certified brucellosis areas.**

The following States, or specified portions thereof, are hereby designated as modified certified brucellosis areas:

*Alabama.* Baldwin, Barbour, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburn, Coffee, Colbert, Coosa, Covington, Cullman, Dale, De Kalb, Elmore, Escambia, Etowah, Franklin, Geneva, Henry, Houston, Jackson, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Mobile, Morgan, Pike, Randolph, Russell, St. Clair, Shelby, Talladega, Tallapoosa, and Winston Counties;

*Arizona.* The entire State;

*Arkansas.* The entire State;

*California.* The entire State;

*Colorado.* Alamosa, Archuleta, Baca, Chaffee, Clear Creek, Conejos, Costilla, Custer, Delta, Denver, Dolores, Eagle, Garfield, Gilpin, Gunnison, Hinsdale, Huerfano, Jefferson, Kit Carson, La Plata, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Ouray, Phillips, Pitkin, Pueblo, Rio Grande, Saguache, San Juan, San Miguel, Sedgwick, Washington, and Yuma Counties; and Southern Ute Indian Reservation and Ute Mountain Ute Indian Reservation;

*Connecticut.* The entire State;

*Delaware.* The entire State;

*Florida.* Baker, Bay, Bradford, Calhoun, Columbia, Dixie, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, and Washington Counties;

*Georgia.* The entire State;

*Idaho.* The entire State;

*Illinois.* Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, McDonough, McHenry, McLean, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, and Woodford Counties;

*Indiana.* The entire State;

*Iowa.* Audubon, Boone, Carroll, Clinton, Delaware, Dickinson, Emmet, Fayette, Greene, Guthrie, Hamilton, Lyon, Mitchell, Monona, O'Brien, Osceola, Palo Alto, Pocahontas, Polk, Sac, Scott, Shelby, Wapello, Warren, Winnebago, Woodbury, and Wright Counties;

*Kansas.* The entire State;

*Kentucky.* The entire State;

*Louisiana.* Ascension, Assumption, Bienville, Claiborne, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Washington, and Webster Parishes;

*Maine.* The entire State;

*Maryland.* The entire State;

*Massachusetts.* The entire State;

*Michigan.* The entire State;

*Minnesota.* The entire State;

*Mississippi.* Alcorn, Amite, Attala, Benton, Chickasaw, Choctaw, Clay, Covington, De Soto, Forrest, Franklin, George, Greene, Hancock, Harrison, Itawamba, Jackson, Jas-

per, Jefferson Davis, Jones, Lamar, Lawrence, Leake, Lee, Lincoln, Lowndes, Marion, Monroe, Neshoba, Newton, Oktibbeha, Pearl River, Perry, Pike, Pontotoc, Prentiss, Simpson, Smith, Stone, Tallahatchie, Tippah, Tishomingo, Union, Walthall, Webster, Winston, and Yalobusha Counties;

*Missouri.* The entire State;

*Montana.* Beaverhead, Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Flathead, Galletin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, McCone, Madison, Meagher, Mineral, Missoula, Musselshell, Park, Petroleum, Phillips, Pondera, Powell, Prairie, Ravalli, Richland, Roosevelt, Rosebud, Sanders, Sheridan, Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, and Yellowstone Counties;

*Nebraska.* Adams, Antelope, Banner, Boone, Burt, Butler, Cass, Cedar, Chase, Cheyenne, Clay, Colfax, Cuming, Dakota, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Howard, Jefferson, Johnson, Kearney, Kimball, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Richardson, Saline, Sarpy, Saunders, Seward, Stanton, Thayer, Thurston, Washington, Wayne, Webster, and York Counties;

*Nevada.* The entire State;

*New Hampshire.* The entire State;

*New Jersey.* The entire State;

*New Mexico.* The entire State;

*New York.* The entire State;

*North Carolina.* The entire State;

*North Dakota.* Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Cass, Cavalier, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grand Forks, Grant, Griggs, Hettinger, Kidder, LaMoure, Logan, McHenry, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, and Williams Counties;

*Ohio.* Allen, Athens, Auglaize, Belmont, Butler, Carroll, Champaign, Clark, Clinton, Columbiana, Coshocton, Crawford, Cuyahoga, Darke, Defiance, Delaware, Erie, Fayette, Franklin, Fulton, Gallia, Greene, Guernsey, Hamilton, Hancock, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Knox, Lake, Lawrence, Licking, Logan, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Meigs, Mercer, Miami, Monroe, Montgomery, Morgan, Morrow, Muskingum, Noble, Ottawa, Paulding, Perry, Pickaway, Pike, Portage, Preble, Putnam, Ross, Sandusky, Scioto, Seneca, Shelby, Stark, Summit, Tuscarawas, Union, Van Wert, Vinton, Warren, Washington, Wayne, Williams, Wood, and Wyandot Counties;

*Oklahoma.* Adair, Canadian, Choctaw, Cimarron, Delaware, Grant, Haskell, Mayes, Noble, Nowata, Ottawa, Payne, and Pushmataha Counties;

*Oregon.* The entire State;

*Pennsylvania.* The entire State;

*Rhode Island.* The entire State;

*South Carolina.* The entire State;

*South Dakota.* Beadle, Brookings, Brown, Buffalo, Butte, Campbell, Clark, Clay, Codington, Custer, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Harding, Jerauld, Lake, Lawrence, Lincoln, McCook, McPherson, Marshall, Miner, Minnehaha, Moody, Perkins, Roberts, Sanborn, Spink, Turner, Union, Walworth, and Ziebach Counties; and Crow Creek Indian Reservation;

*Tennessee.* The entire State;

*Texas.* Andrews, Armstrong, Bailey, Bandera, Baylor, Blanco, Borden, Brewster, Briscoe, Brown, Burnet, Callahan, Cameron, Castro, Childress, Cochran, Coke, Coleman, Comal, Comanche, Concho, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Donley, Eastland, Ector, Edwards, El Paso, Fisher, Gaines, Garza, Gillespie, Glasscock, Hardeman, Hartley, Haskell, Hays, Hidalgo, Hockley, Howard, Hudspeth, Irion, Jeff Davis, Jones, Kendall, Kent, Kerr, Kimble, King, Kinney, Lamb, Lampasas, Lipscomb, Llano, Loving, McCulloch, Martin, Mason, Menard, Midland, Mills, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Pecos, Presidio, Reagan, Real, Reeves, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Upton, Val Verde, Ward, Winkler, Yoakum, and Young Counties;

*Utah.* The entire State;

*Vermont.* The entire State;

*Virginia.* The entire State;

*Washington.* The entire State;

*West Virginia.* The entire State;

*Wisconsin.* The entire State;

*Wyoming.* Albany, Big Horn, Campbell, Crook, Fremont, Goshen, Hot Springs, Laramie, Niobrara, Park, Platte, Sweetwater, Teton, Uinta, Washakie, and Weston Counties; and all of Lincoln County except that portion lying east of a line beginning at the southwest corner of Sublette County and running in a westerly direction to the Bear River Divide; thence running in a southerly direction along the Bear River Divide to U.S. Highway 30; thence running easterly along U.S. Highway 30 to its intersection with U.S. Highway 189; thence running in a southerly direction along U.S. Highway 189 to the Uinta County line;

*Puerto Rico.* The entire area; and

*Virgin Islands of the United States.* The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 13, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 19 F.R. 74, as amended; 9 CFR 78.16)

*Effective date.* The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment adds the following additional areas to the list of areas designated as modified certified brucellosis areas because it has been determined that such areas come within the definition of § 78.1(i): Mobile County in Alabama; Haskell County in Oklahoma; and Brown County in South Dakota.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and it should be made effective promptly in order to accomplish its purpose in the public interest. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of October 1963.

E. E. SAULMON,
*Acting Director, Animal Disease Eradication Division, Agricultural Research Service.*

[F.R. Doc. 63–11263; Filed, Oct. 23, 1963; 8:48 a.m.]

# Title 16—COMMERCIAL PRACTICES

## Chapter I—Federal Trade Commission

[Docket 8454 o.]

## PART 13—PROHIBITED TRADE PRACTICES

### Top Form Mills, Inc., Et Al.

Subpart—Advertising falsely or misleadingly: § 13.235 *Source or origin;* § 13.235–25 *Fashion designers;* § 13.235–60 *Place;* § 13.235–60(a) *Domestic products as imported.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1055–50 *Preticketing merchandise misleadingly.* Subpart—Misbranding or mislabeling: § 13.1325 *Source or origin;* § 13.1325–60 *Maker or seller;* § 13.1325–70 *Place;* § 13.1325–70(a) *Domestic product as imported.*

(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, Top Form Mills, Inc., et al., New York, N.Y., Docket 8454, Sept. 23, 1963]

*In the Matter of Top Form Mills, Inc., a Corporation, Also Trading as Lady Russel Lingerie, and Manuel Kitrosser and Eleanor Topping, Individually and as Officers of Said Corporation*

Order, with opinion, requiring New York City manufacturers of ladies' lingerie and sleepwear to cease representing falsely—through such practices as use of the words "Paris", "Cannes" and "Biarritz" and the name "Jacques Heim" on labels and in advertisements and advertising mats supplied to retailers, and by instructions for washing in French and English on attached tags—that their said products were made in France and designed by a great Paris Couturier.

The order to cease and desist is as follows:

*It is ordered,* That respondents Top Form Mills, Inc., a corporation, also trading as Lady Russel Lingerie, and its officers and Manuel Kitrosser, individually and as an officer of such corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of ladies' lingerie, sleepwear or any other clothing, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Paris", "Cannes", "Biarritz" on labels or otherwise, whether singularly or in connection with any other word or words, to describe or refer to products made in the United States, or representing by any other means that any products made in the United States were made in France or in any other foreign country;

2. Misrepresenting in any manner the country of origin of any of their products;

3. Representing, directly or indirectly, that any of their products were manufactured, or designed, styled or created by Jacques Heim, or by any other French couturier or designer, or by any other French person, firm or corporation; and

4. Using the words "designed", "styled", or "created", or any word or words of similar import, together with the name of any person, to describe or refer to any of their products unless such products are identical as to configuration, combination of lines and patterns executed by such person and are so similar in form, size, shape, ornamentation and other detail as to give the total appearance to the purchasing public of being a precise copy thereof.

*It is further ordered,* That the complaint be, and it hereby is, dismissed as to Elinore Topping.

*It is further ordered,* That the charge in the complaint relating to use of representations as to mill or factory ownership, operation or control, be, and it hereby is, dismissed.

By "Final Order", order requiring report of compliance is as follows:

*It is further ordered,* That since the Commission's "Proposed Final Order" was issued under the Commission's rules dated June 1962, which provided for Proposed Final Order respondents herein shall, pursuant to Rule 5.6 of the Commission's rules dated June, 1962, 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. (The topic dealt with in Rule 5.6 is now in Rule 3.26(a) of the Commission's new rules which are now in effect.)

Issued: September 23, 1963.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 63-11216; Filed, Oct. 23, 1963; 8:46 a.m.]

# Title 18—CONSERVATION OF POWER

## Chapter I—Federal Power Commission

[Docket No. R-227; Order No. 271]

## PART 32—INTERCONNECTION OF FACILITIES; EMERGENCIES; TRANSMISSION TO FOREIGN COUNTRY

## PART 35—FILING OF RATE SCHEDULES

## PART 131—FORMS

### Filing of Rate Schedules by Public Utilities and Licensees

OCTOBER 17, 1963.

Two paragraphs were inadvertently omitted from Order No. 271, Amending Regulations to Govern the Filing of Rate Schedules by Public Utilities and Licensees, issued September 26, 1963 (28 F.R. 10572). They are corrections of cross-references to Part 35 made in other parts of Chapter I of Title 18 of the Code of Federal Regulations. They are made necessary by the changes in the numbering of sections in Part 35.

The Commission, pursuant to the authority contained in Order No. 271, orders:

(A) Order No. 271 is hereby amended to add the following paragraphs:

(D) In § 32.38 of Part 32—Interconnection of facilities; emergencies; transmission to foreign country, Chapter I, Title 18, of the Code of Federal Regulations, change "§§ 35.1–35.12" to "§§ 35.1–35.16." As so amended, the section reads as follows:

**§ 32.38 Filing rate schedules and annual reports.**

Persons authorized to transmit electric energy from the United States shall file all rate schedules, supplements, notices of succession in ownership or operation, notices of cancellation, and certificates of concurrence with respect to such energy in the form and manner specified in the provisions of §§ 35.1 to 35.16, inclusive, of this chapter.

(E) In §§ 131.51, 131.52 and 131.53 of Part 131—Forms, of Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18, of the Code of Federal Regulations, change the material in parentheses at the head of the sections from "(See §§ 35.1–35.12 of this chapter.)" to "(See §§ 35.1–35.21 of this chapter.)".

(B) Order No. 271 is further amended to make the following corrections:

In the footnote to § 35.2(b), insert after "Part 154 of" the words "this chapter, i.e.,". As corrected the footnote reads as follows:

[1] The term "tariff" means a compilation, in book form, of rate schedules of a particular public utility, effective under the Federal Power Act, and a copy of each form of service agreement. In connection herewith, attention is invited to Part 154 of this chapter, i.e., the Commission's regulations under the Natural Gas Act, as a guide to the form and composition of a tariff.

In § 35.12(b)(2)(ii), insert the words "filing and each" in the last sentence after "part of the". As corrected, the subdivision reads as follows:

(ii) A summary statement of all cost (whether fully distributed, incremental or other) computations involved in arriving at the derivation of the level of the rate, in sufficient detail to justify the rate, shall be submitted with the filing, except that if the filing includes nothing more than service to one or more added customers under an established rate of the utility for a particular class of service, such summary statement of cost computations is not required. In all cases, the Secretary is authorized to require the submission of the complete cost studies as part of the filing and each filing public utility shall submit the same upon request by the Secretary in such form as he shall direct.

In § 35.13(b)(4)(i), change "N" to "O". As corrected, the subdivision reads as follows:

(4)(i) Except as provided in subdivision (ii) of this subparagraph, if the rate schedule provides for an increased rate, then 60 days prior to the date that such changed rate is proposed to become effective the filing public utility shall submit a statement showing its cost of the service to be supplied under the new rate schedule according to supporting statements A through O as described below. Simultaneously, the public utility shall submit the material on sales and revenues described in paragraph (a) of this section and, unless the rate schedule containing the proposed increased rate is likewise simultaneously filed, a summary statement of such proposed increased rate: *Provided, however,* That the submittal of such summary statement of the rate schedule shall not be in lieu of the rate schedule as required to be filed with the Commission pursuant to the regulations in this part.

In § 35.13(b)(4)(ii), change "increase" to "increases", and insert after "incidental to" ",". As corrected, the subdivision reads as follows:

(ii) No cost of service data shall be required in cases where the application of the proposed change in rate schedule effects rate increases of less than $50,000 annually resulting from, but incidental to, changes such as a rate design, delivery points and delivery voltage. Specifically designed rate increases of less than $50,000 annually (as opposed to incidental increases), increases resulting from changes made in fuel clauses, and increases of rates comprising an integral part of coordination and interchange arrangements in the nature of power pooling transactions, shall be supported by cost data as identified in § 35.12(b)(2).

In § 35.13(b)(4)(iv), change "N" to "O". As corrected, the subdivision reads as follows:

(iv) The statement of cost of service shall include an attestation by the chief accounting officer or other authorized accounting representative of the filing public utility that the cost statements and supporting data submitted as a part of the filing which purport to reflect the books of the public utility do, in fact, set forth the results shown by such books. Following is a description of statements A through O required to be filed pursuant to this subparagraph.

By the Commission.

[SEAL] GORDON M. GRANT, *Acting Secretary.*

[F.R. Doc. 63-11213; Filed, Oct. 23, 1963; 8:46 a.m.]

# Title 26—INTERNAL REVENUE

## Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6685]

## PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

### Miscellaneous Amendments

On May 28, 1963, notice of proposed rule making with respect to the amend-

ments of the Income Tax Regulations (26 CFR Part 1) under sections 615 and 381(c)(10) of the Internal Revenue Code of 1954 to conform the regulations to changes made by the Act of July 6, 1960 (Pub. Law 86-594, 74 Stat. 333) was published in the FEDERAL REGISTER (28 F.R. 5265). No objection to the rules proposed having been received during the 30-day period prescribed in the notice, the amendments of the regulations as proposed are hereby adopted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
*Commissioner of Internal Revenue.*

Approved: October 18, 1963.

STANLEY S. SURREY,
*Assistant Secretary of the Treasury.*

PARAGRAPH 1. Paragraph (c) of § 1.615 is amended and a historical note is added. These amended provisions read as follows:

**§ 1.615 Statutory provisions; exploration expenditures.**

SEC. 615. *Exploration expenditures.* * * *

(c) *Limitation*—(1) *In general.* This section shall not apply to any amount paid or incurred to the extent that it would, when added to the amounts which have been deducted under subsection (a) and the amounts which have been treated as deferred expenses under subsection (b), or the corresponding provisions of prior law, exceed $400,000.

(2) *Amounts taken into account.* For purposes of paragraph (1), there shall be taken into account amounts deducted and amounts treated as deferred expenses by—

(A) The taxpayer, and

(B) Any individual or corporation who has transferred to the taxpayer any mineral property.

(3) *Application of paragraph (2)(B).* Paragraph (2)(B) shall apply with respect to all amounts deducted and all amounts treated as deferred expenses which were paid or incurred before the latest such transfer from the individual or corporation to the taxpayer. Paragraph (2)(B) shall apply only if—

(A) The taxpayer acquired any mineral property from the individual or corporation under circumstances which make paragraph (7), (8), (11), (15), (17), (20), or (22) of section 113(a) of the Internal Revenue Code of 1939 apply to such transfer;

(B) The taxpayer would be entitled under section 381(c)(10) to deduct expenses deferred under this section had the distributor or transferor corporation elected to defer such expenses; or

(C) The taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 373(b)(1), 1051, or 1082 apply to such transfer.

* * * * *

[Sec. 615 as amended by sec. 1, Act of July 6, 1960 (Pub. Law 86-594, 74 Stat. 333)]

PAR. 2. Paragraph (a) of § 1.615-1 is amended to read as follows:

**§ 1.615-1 Exploration expenditures.**

(a) *General rule.* Section 615 prescribes rules for the treatment of expenditures for ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (other than oil or gas) paid or incurred by the taxpayer before the beginning of the development stage of the mine or other natural deposit. The development stage of the mine or other natural deposit will be deemed to begin at the time when, in consideration of all the facts and circumstances (including the actions of the taxpayer), deposits of ore or other mineral are shown to exist in sufficient quantity and quality to reasonably justify commercial exploitation by the taxpayer. Such expenditures hereinafter in the regulations under section 615 will be referred to as exploration expenditures. Under section 615(a), a taxpayer may, at his option, deduct exploration expenditures paid or incurred in an amount not to exceed $100,000 for any taxable year. Under section 615(b) and § 1.615-2 he may elect to defer any part of such amount and deduct such part on a ratable basis as the units of produced minerals benefited by such expenditures are sold. In any taxable year in which the taxpayer does not treat exploration expenditures under either of these methods, they will be charged to depletable capital account. The option to deduct under section 615(a), and the election to defer under section 615(b), however, are subject to the limitations provided in section 615(c) and § 1.615-4.

PAR. 3. Paragraph (a) of § 1.615-3 is amended to read as follows:

**§ 1.615-3 Election to defer exploration expenditures.**

(a) *General rule.* A taxpayer may defer any portion of the exploration expenditures made with respect to each mine or other natural deposit, subject to the limitations described in section 615(c) and § 1.615-4. The amounts so deferred shall be deducted ratably as the units of produced ores or minerals discovered or explored by reason of such expenditures are sold.

PAR. 4. Section 1.615-4 is amended to read as follows:

**§ 1.615-4 Limitation of amount deductible.**

(a) *Taxable years beginning before July 7, 1960.* For any taxable year beginning before July 7, 1960 (including taxable years of less than 12 months), a taxpayer may deduct or defer exploration expenditures paid or incurred in the taxable year in an amount not in excess of $100,000. However, for such taxable years, the taxpayer may not avail himself of the provisions of section 615 for more than four taxable years (including taxable years of less than 12 months and taxable years subject to the Internal Revenue Code of 1939). Such four taxable years need not be consecutive. In determining the number of years in which a taxpayer has availed himself of section 615, a year for which he makes an election to defer exploration expenditures shall count as one year. Any subsequent taxable year in which such deferred expenditures are deducted shall not be taken into account as one of the four years. For purposes of the 4-year limitation, a year in which both a deduction and an election to defer are availed of by the taxpayer shall be taken into account as only one year.

(b) *Taxable years beginning after July 6, 1960.* For any taxable year beginning after July 6, 1960 (including taxable years of less than 12 months), a taxpayer may deduct or defer exploration expenditures, to which section 615 is applicable, in the lesser of the following amounts:

(1) The amount paid or incurred in the taxable year,

(2) $100,000, or

(3) $400,000 minus all amounts deducted or deferred for taxable years ending after December 31, 1950.

For purposes of this paragraph, the number of taxable years for which the taxpayer availed himself of the provisions of section 615 or the corresponding provisions of prior law is immaterial.

(c) *Special rules for previously deferred expenditures.* In determining whether an election to defer was availed of in applying the limitations of paragraphs (a) and (b) of this section, there shall be taken into account any year with respect to which amounts were deferred but not fully deducted because of a sale or other disposition of the mineral property, even though the balance of the deferred amounts was treated as part of the basis of the mineral property in determining gain or loss from the sale.

(d) *Example of application of provisions.* The application of the provisions of subparagraphs (a) and (b) of this section may be illustrated by the following example:

*Example.* A taxpayer on the calendar year basis, who has never claimed the benefits of section 615, or section 23(ff) of the 1939 Code, expended $200,000 for exploration expenditures during the year 1956. For each of the years 1957, 1958, 1959, and 1960 the taxpayer had exploration costs of $80,000. The taxpayer deducted or deferred the maximum amounts allowed for each of the years 1956, 1957, 1958, and 1959. None of the $80,000 expenditures for 1960 could be deducted or deferred by the taxpayer because he had already deducted or deferred exploration expenditures for 4 prior years. In 1961 the taxpayer expended $200,000 for exploration expenditures. The maximum amount the taxpayer may deduct or defer for the taxable year 1961 is $60,000 computed as follows:

(1) Add all yearly amounts deducted or deferred for exploration expenditures by the taxpayer for prior years.

| Year: | *Expenditures* | *Deducted or deferred* |
|---|---|---|
| 1956 | $200,000 | $100,000 |
| 1957 | 80,000 | 80,000 |
| 1958 | 80,000 | 80,000 |
| 1959 | 80,000 | 80,000 |
| 1960 | 80,000 | 0 |
| Total | | 340,000 |

(2) Subtract the sum of the amounts obtained in (1), $340,000, from $400,000, the maximum amount allowable to the taxpayer for deductions or deferrals of exploration expenditures.

| | |
|---|---|
| Maximum amount allowable to taxpayer | $400,000 |
| Sum of amounts obtained in (1) | 340,000 |
| | 60,000 |

(e) *Transferee of mineral property.* (1) Where an individual or corporation

transfers any property to the taxpayer and the transfer is one to which any of the subdivisions of this subparagraph apply, the taxpayer shall take into account for purposes of the 4-year limitation described in paragraph (a) of this section, all years that the transferor deducted or deferred exploration expenditures, and for purposes of the $400,000 limitation described in paragraph (b) of this section, all amounts that the transferor deducted or deferred.

(i) The taxpayer acquired any mineral property in a transaction described in section 23 (ff) (3) of the Internal Revenue Code of 1939, excluding the reference therein to section 113(a)(13).

(ii) The taxpayer would be entitled under section 381(c)(10) to deduct exploration expenditures if the transferor (or distributor) corporation had elected to defer such expenditures. For example, if the taxpayer acquired any mineral property in a transaction described in section 381(a) (relating to the acquisition of assets through certain corporate liquidations and reorganizations), there shall be taken into account in applying the limitations of paragraph (a) of this section the years in which the transferor exercised the election to defer or deduct exploration expenditures, and there shall be taken into account in applying the limitations of paragraph (b) of this section any amount so deducted or deferred. See also section 381(c)(10) and the regulations thereunder.

(iii) The taxpayer acquired any mineral property under circumstances which make applicable the following sections of the Internal Revenue Code:

(*a*) Section 334(b)(1), relating to the liquidation of a subsidiary where the basis of the property in the hands of the distributee is the same as it would be in the hands of the transferor.

(*b*) Section 362 (a) and (b), relating to property acquired by a corporation as paid-in surplus or as a contribution to capital, or in connection with a transaction to which section 351 applies.

(*c*) Section 372(a), relating to reorganization in certain receiverships and bankruptcy proceedings.

(*d*) Section 373(b)(1), relating to property of a railroad corporation acquired in certain bankruptcy or receivership proceedings.

(*e*) Section 1051, relating to property acquired by a corporation that is a member of an affiliated group.

(*f*) Section 1082, relating to property acquired pursuant to a Securities Exchange Commission order.

(2) For purposes of subparagraph (1) of this paragraph, it is immaterial whether a deduction has been allowed or an election has been made by the transferor with respect to the specific mineral property transferred.

(3) Where a mineral property is acquired under any circumstance except those described in subparagraph (1) of this paragraph, the taxpayer is not required to take into account the election exercised by or deduction allowed to his transferor.

(4) For purposes of applying the limitations imposed by section 615(c): (i) the partner, and not the partnership, shall be considered as the taxpayer (see paragraph (a)(8)(iii) of § 1.702–1), and (ii) an electing small business corporation, as defined in section 1371(b), and not its shareholders, shall be considered as the taxpayer.

(5) For purposes of subparagraph (1)(iii)(*b*) of this paragraph: (i) if mineral property is acquired from a partnership, the transfer shall be considered as having been made by the individual partners, so that the number of years for which section 615 has been availed of by each partner and the amounts which each partner has deducted or deferred under section 615 shall be taken into account, or (ii) if an interest in a partnership having mineral property is transferred, the transfer shall be considered as a transfer of mineral property by the partner or partners relinquishing an interest, so that the number of years for which section 615 has been availed of by each such partner and the amounts which each such partner has deducted or deferred under section 615 shall be taken into account.

(f) *Examples.* The application of the provisions of this section may be illustrated by the following examples:

*Example (1).* A calendar year taxpayer who has never claimed the benefits of section 615 received in 1956 a mineral deposit from X Corporation upon a distribution in complete liquidation of the latter under conditions which would make the provisions of section 334(b)(1) applicable in determining the basis of the property in the hands of the taxpayer. During the year 1955 X Corporation expended $60,000 for exploration expenditures which it elected to treat as deferred expenses. Assume further that the taxpayer made similar expenditures of $150,000, $125,000, $100,000, $60,000, and $180,000 for the years 1956, 1957, 1958, 1959, and 1961, respectively, which the taxpayer elected to deduct for each of those years to the extent allowable. No such expenditures were made for 1960. On the basis of these facts, the taxpayer may deduct or defer $100,000 for each of the years 1956, 1957, and 1958. No deduction or deferral is allowable for 1959 since the 4-year limitation of paragraph (a) of this section applies. The taxpayer may deduct or defer a maximum of $40,000 for 1961 since the $400,000 limitation of paragraph (b) of this section applies, but the 4-year limitation of paragraph (a) does not apply.

*Example (2).* Assume the same facts stated in example (1) except that, prior to acquisition by the taxpayer of the deposit from X Corporation in 1956, X Corporation had acquired the deposit in 1954 in a similar distribution from Y Corporation which, in the years 1952 and 1953, deducted exploration costs paid in respect of an entirely different deposit in the amounts of $30,000 and $50,000, respectively. Under these circumstances, the taxpayer may deduct or defer exploration expenditures paid or incurred in the amount of $100,000 for 1956. No deduction or deferral is allowable to the taxpayer for expenditures made in 1957, 1958, and 1959 since the 4-year limitation of paragraph (a) applies. The taxpayer may deduct or defer a maximum of $100,000 for 1961 since the 4-year limitation of paragraph (a) of this section no longer applies. If the taxpayer deducted or deferred $100,000 for each of the years 1956 and 1961 and also made exploration expenditures in 1962, the taxpayer may deduct or defer a maximum of $60,000 for that year under the $400,000 limitation of paragraph (b) of this section.

*Example (3).* In 1957, A and B transfer assets to a corporation under circumstances making section 351 applicable to such a transfer. Among the assets transferred by A is a mineral lease with respect to certain coal lands. A has deducted exploration expenditures under section 615 for the years 1954 and 1956 in the amounts of $50,000 and $100,000, respectively, made with respect to other deposits not included in the transfer to the corporation. The corporation shall be required to take into account the deductions previously made by A for purposes of applying the limitations of paragraphs (a) and (b) of this section.

*Example (4).* In 1956, A, B, and C form a partnership for the purpose of exploring for, developing, and producing uranium. A contributes a uranium lease to the partnership. A had individually made exploration expenses in the amount of $50,000 and $100,000 with respect to other mineral properties not contributed to the partnership and which he has deducted under section 615(a) for the years 1954 and 1955, respectively. B contributes a uranium lease to the partnership on which he made exploration expenditures in the amount of $100,000 in 1955 which he elected to defer under section 615(b). This is the only year in which B has used section 615. C contributes only cash to the partnership and has not previously used section 615. Subject to the limitations of section 615, for taxable years beginning before July 7, 1960, A may deduct or defer exploration expenses for two more taxable years (either as to expenditures incurred by him individually or with respect to his distributive share of partnership exploration expenses). B may deduct or defer exploration expenditures for three more years, and C may deduct or defer exploration expenditures for four years. For taxable years beginning after July 6, 1960, subject in each case to the $100,000 limitation per year, A may deduct or defer exploration expenditures in an amount not in excess of $250,000 ($400,000 − $150,000), either as to expenditures incurred by him individually or with respect to his distributive share of partnership exploration expenditures. B may similarly deduct or defer exploration expenditures in an amount not in excess of $300,000 ($400,000 − $100,000), and C may deduct or defer exploration expenditures in an amount not in excess of $400,000.

PAR. 5. Section 1.381(c)(10)–1 is amended by revising paragraph (d) and deleting paragraph (e). The revised provisions read as follows:

**§ 1.381(c)(10)–1 Deferred exploration and development expenditures.**

* * * * *

(d) *Carryover of limitation requirements.* (1) If a distributor or transferor corporation transfers any mineral property to the acquiring corporation in a transaction described in section 381(a) and the acquiring corporation pays or incurs exploration expenditures in a taxable year ending after the date of the distribution or transfer, then in applying the 4-year or $400,000 limitations described in section 615(c) and paragraphs (a) and (b) of § 1.615–4, whichever is applicable, the acquiring corporation shall be deemed to have been allowed any deduction which, for any taxable year ending on or before the date of distribution or transfer, was allowed to the distributor or transferor corporation under section 615(a), or under section 23(ff)(1) of the Internal Revenue Code of 1939, or to have made any election which, for any such preceding year, was made by the distributor or transferor corporation under section 615(b), or under section 23(ff)(2) of the Internal Revenue Code of 1939. Thus, in such instance, the acquiring corpo-

ration shall taken into account the years in which the distributor or transferor corporation exercised the election to deduct or defer exploration expenditures and any amounts so deducted or deferred. For this purpose, it is immaterial whether the deduction has been allowed to, or the election has been made by, the distributor or transferor corporation with respect to the specific mineral property transferred by that corporation to the acquiring corporation.

(2) Generally, for purposes of applying the 4-year limitation described in paragraph (a) of § 1.615–4, if there are two or more distributor or transferor corporations that transfer any mineral property to the acquiring corporation, each taxable year of any such corporation ending on or before the date of distribution or transfer in which exploration expenditures were deducted or deferred shall be treated as a separate taxable year regardless of the fact that the taxable years of two or more such corporations normally end on the same date. However, if the date of distribution or transfer is the same with respect to more than one distributor or transferor corporation, then the taxable years of such corporations ending on the same date of distribution or transfer shall be considered as one taxable year for purposes of applying the 4-year limitation even though more than one such corporation deducted or deferred exploration expenditures for such taxable years.

(3) For purposes of applying the $400,000 limitation described in paragraph (b) of § 1.615–4, if there are two or more distributor or transferor corporations that transfer any mineral property to the acquiring corporation, any exploration expenditures which were deducted or treated as deferred expenses by such corporations for taxable years ending after December 31, 1950, shall be taken into account by the acquiring corporation.

(4) If a distributor or transferor corporation that transfers any mineral property to the acquiring corporation was required to take into account any taxable years or amounts of its transferor, as provided by paragraph (e) of § 1.615–4, for purposes of either the 4-year limitation described in paragraph (a) of § 1.615–4 or the $400,000 limitation described in paragraph (b) of § 1.615–4, then the acquiring corporation shall also take these taxable years and amounts into account in applying the same limitations.

(5) The provisions of this paragraph may be illustrated by the following examples:

*Example (1).* M and N Corporations were organized on January 1, 1956, and each corporation computes its taxable income on the basis of the calendar year. For each of its taxable years 1956 and 1957, M Corporation expended $60,000 for exploration expenditures and exercised the option to deduct such amounts under section 615(a). N Corporation made no exploration expenditures during its taxable years 1956 and 1957. On December 31, 1957, M Corporation transferred all of its assets to N Corporation in a transaction to which section 381(a) applies, no gain being recognized to the transferor corporation on the transfer. N Corporation made exploration expenditures of $120,000, $110,000, and $100,000 for the years 1958, 1959, 1960, and 1961, respectively, which expenditures it desired to deduct under section 615(a) to the extent allowable. On the basis of these facts, N Corporation may deduct up to $100,000 for each of the years 1958 and 1959. No deduction or deferral is allowable for 1960 since the benefits of section 615(c) were previously availed of for 4 taxable years. However, N Corporation may deduct $80,000 for 1961 (the 4-year limitation not applying to such year) but, if such deduction is made, N Corporation will not be allowed any further deductions or deferrals since the $400,000 limitation of paragraph (b) of § 1.615–4 will have been reached.

*Example (2).* R and S Corporations were organized on January 1, 1955, and each corporation computes its income on the basis of the calendar year. For the 1955 taxable year neither corporation made any exploration expenditures under section 615(a). On June 30, 1956, R Corporation transferred all its assets to S Corporation in a transaction to which section 381(a) applies, no gain being recognized to the transferor corporation on the transfer. During its short taxable year ending June 30, 1956, R Corporation made exploration expenditures of $60,000 which it elected to deduct under section 615. For its taxable year ending December 31, 1956, S Corporation may deduct or defer exploration expenditures up to $100,000 since this is a separate election for purposes of utilizing section 615 and is not affected by the $60,000 previously deducted by R Corporation. Assuming S Corporation exercises an election under section 615 for its taxable year ending December 31, 1956, S Corporation may elect to apply the benefits of section 615 to exploration expenditures for two more taxable years. However, for taxable years beginning after July 6, 1960 (the 4-year limitation not applying), S Corporation is entitled under section 615 to deduct or defer exploration expenditures made in such years to the extent that the combined deductions and deferrals by R and S Corporations in prior years did not exceed $400,000.

*Example (3).* O and P Corporations were organized on January 1, 1955, and each corporation computes its taxable income on the basis of the calendar year. For their taxable years 1955, 1956, and 1957, each corporation deducted exploration expenditures made in such years under section 615(a). On June 30, 1958, O Corporation transferred all its assets to P Corporation in a transaction to which section 381(a) applies, no gain being recognized to the transferor corporation on the transfer. If, during its short taxable year ending June 30, 1958, O Corporation made additional exploration expenditures, it may deduct or defer such expenditures (up to $100,000) under section 615 since O Corporation has utilized section 615 in only three previous taxable years. For its taxable years ending after June 30, 1958, and beginning before July 7, 1960, P Corporation may not deduct or defer exploration expenditures under section 615, since the benefits of that section were utilized by O and P Corporations for 4 taxable years. However, for taxable years beginning after July 6, 1960 (the 4-year limitation not applying), P is entitled under section 615 to deduct or defer exploration expenditures made in such years to the extent that the combined deductions and deferrals by O and P Corporations in prior years do not exceed $400,000. See paragraph (b) of § 1.615–4.

*Example (4).* X, Y, and Z Corporations were organized on January 1, 1955, and each corporation computes its taxable income on the basis of the calendar year. For their taxable years ending December 31, 1955, X and Y Corporations each deferred $100,000 for exploration expenditures made in such taxable years under section 615(b). Z Corporation made no exploration expenditures during its taxable year ending December 31, 1955. On March 31, 1956, X and Y Corporations transferred all their assets to Z Corporation in a transaction to which section 381(a) applies, no gain being recognized to the transferor corporations on the transfer. X and Y Corporations each made exploration expenditures of $75,000 during their short taxable years ending March 31, 1956, which they deducted under section 615(a). For purposes of taxable years beginning before July 7, 1960, Z Corporation must take into account the taxable years in which X and Y Corporations deducted or deferred exploration expenditures. In so doing, each taxable year in which exploration expenditures were deducted or deferred must be taken into account except that the taxable years of X and Y Corporations ending on March 31, 1956, shall be considered as one taxable year. Therefore, Z Corporation may deduct or defer exploration expenditures in accordance with section 615 for any one taxable year ending after March 31, 1956, and beginning before July 7, 1960. However, for taxable years beginning after July 6, 1960 (the 4-year limitation not applying), Z Corporation must take into account for purposes of the $400,000 limitation all of the $350,000 of exploration expenditures deducted or deferred by X, Y, and Z Corporations during taxable years ending after December 31, 1950. Therefore, Z Corporation, assuming it has not deducted or deferred any exploration expenditures, is entitled under section 615 to deduct or defer in taxable years beginning after July 6, 1960, up to $50,000 for exploration expenditures made in such years.

*Example (5).* For purposes of this example, assume that each taxpayer computes taxable income on the basis of the calendar year. Taxpayer A, an individual who has deducted exploration expenditures of $75,000 under section 23(ff) of the Internal Revenue Code of 1939 for each of his taxable years 1952 and 1953, transferred a mineral property to K Corporation on January 1, 1954, in a transaction in which the basis of the mineral property in the hands of K Corporation is determined under section 362(a). For its taxable year 1954 and pursuant to section 615(a), K Corporation deducted exploration expenditures of $100,000 which it made in such year. K Corporation had made no exploration expenditures in any preceding taxable year. On December 31, 1954, K Corporation transferred all its assets to L Corporation in a reorganization to which section 381(a) applies, no gain being recognized to the transferor corporation on the transfer. Assuming that L Corporation has not deducted or deferred exploration expenditures in any preceding taxable year, L Corporation may deduct or defer exploration expenditures (up to $100,000) in accordance with section 615 for any one taxable year ending after December 31, 1954, and beginning before July 7, 1960, in view of the 4-year limitation. However, if L Corporation does not deduct or defer exploration expenditures in that period, then for taxable years beginning after July 6, 1960 (the 4-year limitation not applying), L Corporation is entitled to deduct or defer up to $150,000 (but not to exceed $100,000 per year) for exploration expenditures made in such years. See paragraph (b) of § 1.615–4.

[F.R. Doc. 63–11253; Filed, Oct. 23, 1963; 8:48 a.m.]

SUBCHAPTER B—ESTATE TAX

[T.D. 6684]

## PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

### Miscellaneous Amendments

On June 18, 1963, a notice of proposed rule making was published in the FED-

ERAL REGISTER (28 F.R. 6228), with respect to conforming the Estate Tax Regulations (26 CFR Part 20) to section 18 of the Revenue Act of 1962, relative to the inclusion of foreign real property in the gross estate. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as so proposed are hereby adopted. In addition, paragraph (a) of § 20.2105–1 is amended to include certain real property situated outside the United States in the list of types of property regarded as property outside the United States in the case of nonresident aliens. Paragraph (a) of § 20.2105–1 as so amended reads as set forth below.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
*Commissioner of Internal Revenue.*

Approved: October 17, 1963.

STANLEY S. SURREY,
*Assistant Secretary of the Treasury.*

In order to conform the Estate Tax Regulations (26 CFR Part 20) to the provisions of section 18 of the Revenue Act of 1962, such regulations are amended as follows:

PARAGRAPH 1. Paragraph (b)(2) of § 20.0–2 is amended to read as follows:

**§ 20.0–2 General description of tax.**

* * * * *

(b) *Method of determining tax; estate of citizen or resident.* * * *

(2) *Gross estate.* The first step in determining the tax is to ascertain the total value of the decedent's gross estate. The value of the gross estate includes the value of all property to the extent of the interest therein of the decedent at the time of his death. (For certain exceptions in the case of real property situated outside the United States, see paragraphs (a) and (c) of § 20.2031–1.) In addition, the gross estate may include property in which the decedent did not have an interest at the time of his death. A decedent's gross estate for Federal estate tax purposes may therefore be very different from the same decedent's estate for local probate purposes. Examples of items which may be included in a decedent's gross estate and not in his probate estate are the following: certain property transferred by the decedent during his lifetime without adequate consideration; property held jointly by the decedent and others; property over which the decedent had a general power of appointment; proceeds of certain policies of insurance on the decedent's life; annuities; and dower or curtesy of a surviving spouse or a statutory estate in lieu thereof. For a detailed explanation of the method of ascertaining the value of the gross estate, see sections 2031 through 2044, and the regulations thereunder.

PAR. 2. Paragraph (a) of § 20.2014–2 is amended by revising the example contained therein to read as follows:

**§ 20.2014–2 "First limitation".**

(a) * * *

*Example.* At the time of his death, the decedent, a citizen of the United States, owned stock in X Corporation (a corporation organized under the laws of Country Y) valued at $80,000. In addition he owned bonds issued by X Corporation valued at $80,000. The stock and bond certificates were in the United States. Decedent left by will $20,000 of the stock and $50,000 of the bonds in X Corporation to his surviving spouse. He left the rest of the stock and bonds to his son. Under the situs rules referred to in paragraph (a)(3) of § 20.2014–1 the stock is deemed situated in Country Y while the bonds are deemed to have their situs in the United States. There is no death tax convention in existence between the United States and Country Y. The laws of Country Y provide for inheritance taxes computed as follows:

| | |
|---|---|
| Inheritance tax of surviving spouse: | |
| Value of stock | $20,000 |
| Value of bonds | 50,000 |
| Total value | 70,000 |
| Tax (16 percent rate) | 11,200 |
| Inheritance tax of son: | |
| Value of stock | 60,000 |
| Value of bonds | 30,000 |
| Total value | 90,000 |
| Tax (16 percent rate) | 14,400 |

The "first limitation" on the credit for foreign death taxes is:

$$\frac{\$20{,}000+\$60{,}000 \text{ (factor C of the ratio stated at § 20.2014–2(a))}}{\$70{,}000+\$90{,}000 \text{ (factor D of the ratio stated at § 20.2014–2(a))}} \times (\$11{,}200+\$14{,}400) \text{ (factor B of the ratio stated at § 20.2014–2(a))} = \$12{,}800.$$

PAR. 3. Section 20.2031 is amended by revising section 2031(a) and by adding a historical note to read as follows:

**§ 20.2031 Statutory provisions; definition of gross estate.**

SEC. 2031. *Definition of gross estate*—(a) *General.* The value of the gross estate of the decedent shall be determined by including to the extent provided for in this part, the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated.

* * * * *

[Sec. 2031 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 4. Section 20.2031–1 is amended by revising so much of paragraph (a) as precedes subparagraph (1) and by adding a new paragraph (c) thereto. These revised and added paragraphs read as follows:

**§ 20.2031–1 Definition of gross estate; valuation of property.**

(a) *Definition of gross estate.* Except as otherwise provided in this paragraph the value of the gross estate of a decedent who was a citizen or resident of the United States at the time of his death is the total value of the interests described in sections 2033 through 2044. The gross estate of a decedent who died before October 17, 1962, does not include real property situated outside the United States (as defined in paragraph (b)(1) of § 20.0–1). Except as provided in paragraph (c) of this section (relating to the estates of decedents dying after October 16, 1962, and before July 1, 1964), in the case of a decedent dying after October 16, 1962, real property situated outside the United States which comes within the scope of sections 2033 through 2044 is included in the gross estate to the same extent as any other property coming within the scope of those sections. In arriving at the value of the gross estate the interests described in sections 2033 through 2044 are valued as described in this section, §§ 20.2031–2 through 20.2031–9 and § 20.2032–1. The contents of sections 2033 through 2044 are, in general, as follows:

* * * * *

(c) *Real property situated outside the United States; gross estate of decedent dying after October 16, 1962, and before July 1, 1964*—(1) *In general.* In the case of a decedent dying after October 16, 1962, and before July 1, 1964, the value of real property situated outside the United States (as defined in paragraph (b)(1) of § 20.0–1) is not included in the gross estate of the decedent—

(i) Under section 2033, 2034, 2035(a), 2036(a), 2037(a), or 2038(a) to the extent the real property, or the decedent's interest in it, was acquired by the decedent before February 1, 1962;

(ii) Under section 2040 to the extent such property or interest was acquired by the decedent before February 1, 1962, or was held by the decedent and the survivor in a joint tenancy or tenancy by the entirety before February 1, 1962; or

(iii) Under section 2041(a) to the extent that before February 1, 1962, such property or interest was subject to a general power of appointment (as defined in section 2041) possessed by the decedent.

(2) *Certain property treated as acquired before February 1, 1962.* For purposes of this paragraph real property situated outside the United States (including property held by the decedent and the survivor in a joint tenancy or tenancy by the entirety), or an interest in such property or a general power of appointment in respect of such property, which was acquired by the decedent after January 31, 1962, is treated as acquired by the decendent before February 1, 1962, if

(i) Such property, interest, or power was acquired by the decedent by gift within the meaning of section 2511, or from a prior decedent by devise or inheritance, or by reason of death, form of ownership, or other conditions (including the exercise or nonexercise of a power of appointment); and

(ii) Before February 1, 1962, the donor or prior decedent had acquired the property or his interest therein or had possessed a power of appointment in respect thereof.

(3) *Certain property treated as acquired after January 31, 1962.* For purposes of this paragraph that portion of capital additions or improvements made after January 31, 1962, to real property situated outside the United States is, to the extent that it materially increases the value of the property, treated as real property acquired after January 31, 1962. Accordingly, the gross estate may include the value of improvements on unimproved real property, such as office buildings, factories, houses, fences, drainage ditches, and other capital items, and the value of capital additions and improvements to existing improvements, placed on real property after January 31, 1962, whether or not the value of such real property or existing improvements is included in the gross estate.

PAR. 5. Section 20.2033 is amended and a historical note added to read as follows:

**§ 20.2033 Statutory provisions; property in which the decedent had an interest.**

SEC. 2033. *Property in which the decedent had an interest.* The value of the gross estate shall include the value of all property to the extent of the interest therein of the decedent at the time of his death.

[Sec. 2033 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 6. Paragraph (a) of § 20.2033–1 is amended to read as follows:

**§ 20.2033–1 Property in which the decedent had an interest.**

(a) *In general.* The gross estate of a decedent who was a citizen or resident of the United States at the time of his death includes under section 2033 the value of all property, whether real or personal, tangible or intangible, and wherever situated, beneficially owned by the decedent at the time of his death. (For certain exceptions in the case of real property situated outside the United States, see paragraphs (a) and (c) of § 20.2031–1.) Real property is included whether it came into the possession and control of the executor or administrator or passed directly to heirs or devisees. Various statutory provisions which exempt bonds, notes, bills, and certificates of indebtedness of the Federal Government or its agencies and the interest thereon from taxation are generally not applicable to the estate tax, since such tax is an excise tax on the transfer of property at death and is not a tax on the property transferred.

PAR. 7. Section 20.2034 is amended and a historical note added to read as follows:

**§ 20.2034 Statutory provisions; dower or curtesy interests.**

SEC. 2034. *Dower or curtesy interests.* The value of the gross estate shall include the value of all property to the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower or curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy.

[Sec. 2034 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 8. Section 20.2035 is amended by revising section 2035(a) and by adding a historical note to read as follows:

**§ 20.2035 Statutory provisions; transactions in contemplation of death.**

SEC. 2035. *Transactions in contemplation of death*—(a) *General rule.* The value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, in contemplation of his death.

* * * * *

[Sec. 2035 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 9. Section 20.2036 is amended by revising the material preceding paragraph (1) of section 2036(a) and by adding a historical note to read as follows:

**§ 20.2036 Statutory provisions; transfers with retained life estate.**

SEC. 2036. *Transfers with retained life estate*—(a) *General rule.* The value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death—

* * * * *

[Sec. 2036 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 10. Section 20.2037 is amended by revising the material preceding paragraph (1) of section 2037(a) and by adding a historical note to read as follows:

**§ 20.2037 Statutory provisions; transfers taking effect at death.**

SEC. 2037. *Transfers taking effect at death*—(a) *General rule.* The value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time after September 7, 1916, made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, if—

* * * * *

[Sec. 2037 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 11. Section 20.2038 is amended by revising the material preceding paragraph (1) of section 2038(a) and by adding a historical note to read as follows:

**§ 20.2038 Statutory provisions; revocable transfers.**

SEC. 2038. *Revocable transfers*—(a) *In general.* The value of the gross estate shall include the value of all property—

* * * * *

[Sec. 2038 as amended by Act of Aug. 7, 1959 (Public Law 86–141, 73 Stat. 288); sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 12. Section 20.2040 is amended and a historical note added to read as follows:

SEC. 2040. *Joint interests.* The value of the gross estate shall include the value of all property to the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: *Provided,* That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: *Provided further,* That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants.

[Sec. 2040 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 13. Section 20.2041 is amended by revising the material preceding paragraph (1) of section 2041(a) and by adding a historical note to read as follows:

**§ 20.2041 Statutory provisions; powers of appointment.**

SEC. 2041. *Powers of appointment*—(a) *In general.* The value of the gross estate shall include the value of all property—

* * * * *

[Sec. 2041 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 14. Section 20.2053–7 is amended by revising the last sentence. Section 20.2053–7 as so amended reads as follows:

**§ 20.2053–7 Deduction for unpaid mortgages.**

A deduction is allowed from a decedent's gross estate of the full unpaid amount of a mortgage upon, or of any other indebtedness in respect of, any property of the gross estate, including interest which had accrued thereon to the date of death, provided the value of the property, undiminished by the amount of the mortgage or indebtedness, is included in the value of the gross estate. If the decedent's estate is liable for the amount of the mortgage or indebtedness, the full value of the property subject to the mortgage or indebtedness must be included as part of the value of the gross estate; the amount of the mortgage or indebtedness being in such case allowed as a deduction. But if the decedent's estate is not so liable, only the value of the equity of redemption (or the value of the property, less the mortgage or indebtedness) need be returned as part of the value of the gross estate. In no case may the deduction on account of the mortgage or indebtedness exceed the liability therefor contracted bona fide and for an adequate and full consideration in money or money's worth. See § 20.2043–1. Only interest accrued to the date of the decedent's death is allowable even though the alternate valuation method under section 2032 is selected. In any case where real property situated outside the United States does not form a part of the gross estate, no deduction may be taken of any mort-

gage thereon or any other indebtedness in respect thereof.

PAR. 15. Section 20.2103–1 is amended to read as follows:

**§ 20.2103–1 Estates of nonresidents not citizens; "entire gross estate".**

The "entire gross estate" wherever situated of a nonresident who was not a citizen of the United States at the time of his death is made up in the same way as the "gross estate" of a citizen or resident of the United States. See §§ 20.2031–1 through 20.2044–1. See paragraphs (a) and (c) of § 20.2031–1 for the circumstances under which real property situated outside the United States is excluded from the gross estate of a citizen or resident of the United States. However, in the case of a nonresident not a citizen, only that part of the entire gross estate which is situated in the United States is included in his taxable estate. In fact, property situated outside the United States need not be disclosed on the return unless certain deductions are claimed or information is specifically requested. See §§ 20.2106–1 and 20.2106–2. For a description of property considered to be situated in the United States, see § 20.2104–1. For a description of property considered to be situated outside the United States, see § 20.2105–1.

PAR. 16. Paragraph (a) of § 20.2105–1 is amended to include certain real property situated outside the United States in the list of types of property regarded as property outside the United States in the case of nonresident aliens. Paragraph (a) of § 20.2105–1 as so amended reads as follows:

**§ 20.2105–1 Estates of nonresidents not citizens; property without the United States.**

* * * * *

(a) (1) Real property located outside the United States, except to the extent excludible from the entire gross estate wherever situated under § 20.2103–1.

(2) Tangible personal property located outside the United States.

[F.R. Doc. 63–11252; Filed, Oct. 23, 1963; 8:48 a.m.]

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SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6686]

## PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

### Exclusion of Local Advertising Charges From Sale Price

On April 23, 1963, notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 3984) to conform the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4216 (f) of the Internal Revenue Code of 1954 to section 2 of the Act of October 9, 1962 (Public Law 87–770, 76 Stat. 768), which provides for a change in the definition of local advertising to include the media of magazines and outdoor advertising signs or posters. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
*Commissioner of Internal Revenue.*

Approved: October 18, 1963.

STANLEY S. SURREY,
*Assistant Secretary of the Treasury.*

In order to conform the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4216(f) of the Internal Revenue Code of 1954 to section 2 of the Act of October 9, 1962 (Public Law 87–770, 76 Stat. 768), which provides for a change in the definition of local advertising to include the media of magazines and outdoor advertising signs or posters, such regulations are amended as follows:

PARAGRAPH 1. Section 48.4216(f) is amended by revising paragraph (4) (C) of section 4216(f) and by revising the historical note. These amended provisions read as follows:

**§ 48.4216(f) Statutory provisions; definition of price; exclusion of local advertising charge from sale price.**

SEC. 4216. *Definition of price.* * * *

(f) *Exclusion of local advertising charge from sale price.* * * *

(4) *Local advertising defined.* * * *

(C) Is broadcast over a radio station or television station, appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster.

[Sec. 4216(f) as added by sec. 1, Act of Sept. 14, 1960 (Pub. Law 86–781, 74 Stat. 1017) and as amended by sec. 2, Act of Oct. 9, 1962 (Pub. Law 87–770, 76 Stat. 768)]

PAR. 2. Section 48.4216(f)–1 is amended by revising paragraph (a), subparagraphs (1) (iii) and (4) of paragraph (b), and subparagraph (1) of paragraph (c), and by adding subparagraphs (6) and (7) to paragraph (b). These amended and added provisions read as follows:

**§ 48.4216(f)–1 Exclusion of local advertising charges from sale price.**

(a) *In general.* Section 4216(f) deals with the treatment to be accorded charges made by a manufacturer for, and reimbursements by a manufacturer of expenditures in connection with, the advertising of certain articles subject to excise tax under chapter 32 of the Code. Section 4216(f) provides an exclusion (which is in addition to the exclusions provided by section 4216(a) and the regulations thereunder) in respect of charges for local advertising, as defined in paragraph (b) of this section, for purposes of determining the price for which an article is sold. See paragraph (c) of this section. The exclusion provided by section 4216(f) and paragraph (c) of this section has application only if—

(1) In the case of articles sold during the period January 1, 1961, through December 31, 1962, the advertising is broadcast over a radio or television station, or appears in a newspaper; and

(2) In the case of articles sold on or after January 1, 1963, the advertising is broadcast over a radio or television station, appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster.

Section 4216(f) also provides an overall limitation in respect of the sum of the amount of the exclusions from price as charges for local advertising and the amount of the readjustments authorized under section 6416(b)(1) (relating to credits or refunds for price readjustments) in respect of reimbursements by a manufacturer of expenditures for local advertising. See § 48.4216(f)–2. For provisions prohibiting exclusion from price or readjustment of price in respect of charges for, and reimbursements of expenditures for, advertising other than local advertising, see § 48.4216(f)–3.

(b) *Definition of local advertising—*

(1) *In general.* * * *

(iii) (*a*) In the case of articles sold on or after January 1, 1961, and before January 1, 1963, is broadcast over a radio station or television station or appears in a newspaper, or

(*b*) In the case of articles sold on or after January 1, 1963, is broadcast over a radio station or television station, appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster.

* * * * *

(4) *Determination of costs of local advertising.* Where an advertisement identifies more than one article, and all such articles are not taxable, or are not taxable at the same rate under the same section of chapter 32 of the Code, a reasonable allocation of the cost of the advertisement must be made among (i) articles taxable at the same rate under the same section of the Code and (ii) articles which are not taxable under chapter 32 of the Code. For example, in the case of a single page newspaper or magazine advertisement, an allocation of costs reflecting the lineage or space devoted to the specified categories will be considered to reflect a reasonable allocation of the cost of advertising the different articles. As a general rule, only the cost of the "spot" portion identifying the retail establishment is considered "local advertising" in the case of national television or radio programs.

* * * * *

(6) *Meaning of "magazine".* The term "magazine", as used in subparagraph (1) of this paragraph, is limited to those publications which are (i) commonly understood to be magazines, (ii) printed and distributed periodically at least twice a year, and (iii) published for the dissemination of information of a general nature or of special interest to particular groups. The term does not include handbills, circulars, flyers or the like, unless printed and distributed as a part of a publication which constitutes a magazine within the meaning of this subparagraph. For purposes of this subparagraph, advertising is not considered to be information of a general nature or information of special in-

terest to particular groups within the contemplation of subdivision (iii) of this subparagraph.

(7) *Meaning of "outdoor advertising sign or poster".* The term "outdoor advertising sign or poster", as used in subparagraph (1) of this paragraph, means a sign or poster displaying advertising matter, which is located outside of a roofed enclosure. This term includes both signs or posters on billboards, whether placed on or affixed to land, buildings, or other structures, and those which are displayed on or attached to moving objects, provided the signs or posters are located outside of a roofed enclosure. The term "roofed enclosure" means a roofed structure which is enclosed on more than one-half of its sides by walls, fences, or other barriers.

(c) *Exclusion*—(1) *Conditions and limitations.* A charge for local advertising which is required by a manufacturer to be paid as a condition to his sale of an article is not a part of the taxable price of the article, to the extent that such charge meets each of the following conditions and limitations:

(i) Such charge does not exceed 5 percent of the difference between (*a*) an amount which would constitute the taxable price of the article (computed at the time of the sale of the article) if no part of any charge for local advertising were excludable in computing taxable price and (*b*) the amount of any separate charge for local advertising, whatever the amount of such charge may be.

(ii) Such charge is specifically shown as a separate charge for local advertising on the invoice or statement covering the sale of the article.

(iii) Such charge is billed by the manufacturer with the intention on his part of repaying the amount of the charge to the person purchasing the article from him, or to any person who subsequently purchases the article for resale, in reimbursement of costs incurred for local advertising of such article or some other article or articles taxable at the same rate under the same section of the Code. In the absence of evidence to the contrary, the fact of such intention will be assumed in all cases where the manufacturer and his vendees are parties to an advertising plan which calls for such repayments, or the manufacturer can otherwise establish that the vendees to whom he bills such charges understand and expect that such repayments will be made.

PAR. 3. Section 48.4216(f)–3 is revised to read as follows:

**§ 48.4216(f)–3 No exclusion or readjustment for other advertising charges or reimbursements.**

(a) *Exclusions from price.* No exclusion in computing the taxable price of any article sold by the manufacturer may be allowed in respect of any charge for advertising if, and to the extent that, such charge—

(1) Is for advertising which does not qualify as local advertising within the meaning of section 4216(f)(4) and paragraphs (a) and (b) of § 48.4216(f)–1, or

(2) Does not satisfy all of the conditions and limitations stated in section 4216(f)(1) and paragraph (c) of § 48.4216(f)–1.

(b) *Readjustments of price.* No credit or refund under section 6416(b)(1) may be allowed in respect of any amount which was included in the taxable price of an article sold by the manufacturer and which was later paid by him to his vendee in reimbursement of costs incurred for advertising, if, and to the extent that, the amount so paid—

(1) Is for advertising which does not qualify as local advertising within the meaning of section 4216(f)(4) and paragraph (b) of § 48.4216(f)–1, or

(2) Is not within the limitation provided in section 4216(f)(2), as computed in accordance with § 48.4216(f)–2, as of the close of the calendar quarter in which the amount is so paid over or as of the close of any subsequent calendar quarter in the same calendar year. See, however, paragraph (c)(2)(ii) of § 48.6416(b)–1, relating to redetermination of price readjustments in cases where local advertising charges excluded from taxable price in one calendar year become taxable as of May 1 of the following calendar year.

PAR. 4. Section 48.6416(b)–1 is amended by revising paragraph (c) to read as follows:

**§ 48.6416(b)–1 Readjustments of price on which manufacturers or retailers excise tax is based.**

* * * * *

(c) *Reimbursements in respect of local advertising*—(1) *In general.* In any case in which a manufacturer has paid tax under chapter 32 based on the price of any article sold by him—

(i) During the period January 1, 1961, through December 31, 1962, and the advertising is broadcast over a radio or television station, or appears in a newspaper, and

(ii) After December 31, 1962, and the advertising is broadcast over a radio or television station, appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster,

and a portion of the price is thereafter paid by the manufacturer to his vendee in reimbursement of expenses for local advertising of such article or any other article taxable at the same rate under the same section of chapter 32 which was sold by such manufacturer, such reimbursement will constitute a price readjustment with respect to which the manufacturer may claim credit or refund, if and to the extent that such reimbursement is within the limitation provided in section 4216(f)(2), as computed in accordance with the provisions of § 48.4216(f)–2 as of the close of the calendar quarter in which the reimbursement is made or as of the close of any subsequent calendar quarter of the same calendar year.

(2) *Local advertising charges excluded from taxable price in one calendar year but repaid on or after May 1 of following calendar year*—(i) *Determination of price readjustments for year in which charge is repaid.* In any case where local advertising charges which were excluded in computing the taxable price of an article sold in any calendar year are not repaid to the manufacturer's vendee or any subsequent vendee before May 1 of the following calendar year and tax is paid with respect to such charges (see section 4216(f)(1) and § 48.4216(f)–1), any subsequent repayment of such charges to the manufacturer's vendee in reimbursement of expenses incurred for local advertising will constitute a price readjustment with respect to which the manufacturer may claim credit or refund, if and to the extent that such reimbursement is within the limitation provided in section 4216(f)(2), as computed in accordance with the provisions of § 48.4216(f)–2 as of the close of the calendar quarter in which the reimbursement is made or as of the close of any subsequent calendar quarter of the same calendar year.

(ii) *Redetermination of price readjustments for year in which charge was made.* In any case where local advertising charges which were excluded in computing the taxable price of an article sold in any calendar year are not repaid to the manufacturer's vendee or any subsequent vendee before May 1 of the following calendar year and tax is paid with respect to such charges (see section 4216(f)(1) and § 48.4216(f)–1), the manufacturer may make a redetermination, in respect of the calendar year in which the charge was made, of the price readjustments with respect to which he may claim credit or refund, excluding from such redetermination the local advertising charges made in such calendar year which became taxable as of May 1 of the following calendar year.

[F.R. Doc. 63–11254; Filed, Oct. 23, 1963; 8:48 a.m.]

# Title 36—PARKS, FORESTS, AND MEMORIALS

## Chapter III—Corps of Engineers, Department of the Army

## PART 311—PUBLIC USE OF CERTAIN RESERVOIR AREAS

### New Hogan Reservoir Area, Calaveras River, California

The Secretary of the Army having determined that the use of New Hogan Reservoir Area, Calaveras River, California, by the general public for boating, swimming, bathing, fishing and other recreational purposes will not be contrary to the public interest and will not be inconsistent with the operation and maintenance of the reservoir for its primary purposes, hereby prescribes rules and regulations for its public use, pursuant to the provisions of Section 4 of the Flood Control Act of 1944, as amended (76 Stat. 1195), adding the reservoir to the list in § 311.1, as follows:

**§ 311.1 Areas covered.**

* * * * *

CALIFORNIA

* * * * *

NEW HOGAN RESERVOIR AREA, CALAVERAS RIVER

* * * * *

[Regs., September 1963, ENGCW-OM] (Sec. 4, 58 Stat. 889, as amended; 16 U.S.C. 460d)

J. C. LAMBERT,
*Major General, U.S. Army,*
*The Adjutant General.*

[F.R. Doc. 63-11215; Filed, Oct. 23, 1963; 8:46 a.m.]

# Title 43—PUBLIC LANDS: INTERIOR

## Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3255]

[Sacramento 076312]

### CALIFORNIA

### Power Site Cancellation No. 188; Partly Cancelling Power Site Classification No. 30; (Project 284)

By virtue of the authority contained in the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and in section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to the determination of the Federal Power Commission docketed as DA-1036-California, it is ordered as follows:

1. The Departmental Order of April 20, 1922, creating Power Site Classification No. 30, is hereby cancelled so far as it affects the following described land:

MOUNT DIABLO MERIDIAN

T. 5 N., R. 14 E.,
Sec. 1, NW¼SE¼.

Containing approximately 40 acres.

2. In DA-1036-California, the Federal Power Commission vacated the withdrawal created pursuant to the filing of an application for a preliminary permit for project No. 284, pertaining to the land described in paragraph 1, hereof.

3. Subject to any valid existing rights, the requirements of applicable law, and the provisions of any existing withdrawals, the lands are hereby opened to filing of applications and selections, in accordance with the following:

a. Until 10:00 a.m. on April 17, 1964, the State of California shall have (1) a preferred right of application to select the lands in accordance with subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852), and (2) a preferred right to apply for the reservation to the State or to any of its political subdivisions, under any statute or regulation applicable thereto, of any of the lands required for a right-of-way for a public highway or as a source of material for the construction and maintenance of such highways, in accordance with the provisions of section 24 of the Federal Power Act, *supra.*

b. All valid applications and selections under the nonmineral public land laws, other than preference right applications from the State of California, presented at or prior to 10:00 a.m. on November 22, 1963, will be considered as simultaneously filed at that hour. Rights under such application and selections filed after that hour will be governed by the time of filing.

4. The land has been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

5. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims, must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, California.

JOHN A. CARVER, Jr.,
*Assistant Secretary of the Interior.*

OCTOBER 17, 1963.

[F.R. Doc. 63-11224; Filed, Oct. 23, 1963; 8:46 a.m.]

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[Public Land Order 3256]

[BLM 071431]

### MICHIGAN

### Adding Lands to the Hiawatha National Forest

By virtue of the authority contained in the Act of July 9, 1962 (76 Stat. 140; 43 U.S.C. 315g-1), and upon recommendation of the Secretary of Agriculture, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Michigan are hereby added to and made a part of the Hiawatha National Forest and hereafter shall be subject to all laws and regulations applicable thereto:

MICHIGAN MERIDIAN

T. 42 N., R. 2 W.,
Sec. 3, SW¼SE¼;
Sec. 6, E½SE¼;
Sec. 12, SE¼NW¼;
Sec. 14, NW¼NE¼;
Sec. 16, NE¼SE¼.
T. 43 N., R. 2 W.,
Sec. 4, NW¼NE¼, NW¼SE¼, NW¼SW¼, S½SW¼;
Sec. 6, NE¼NW¼;
Sec. 8, NE¼NE¼, NW¼SE¼, W½NE¼SE¼;
Sec. 29, SE¼;
Sec. 30, NE¼NE¼.
T. 41 N., R. 3 W.,
Sec. 5, N½NE¼;
Sec. 6, SE¼SE¼.
T. 42 N., R. 3 W.,
Sec. 7, NW¼SW¼, SE½SE¼.
T. 43 N., R. 3 W.,
Sec. 6, NE¼.
T. 41 N., R. 4 W.,
Sec. 2, SW¼SE¼;
Sec. 14, SW¼SE¼;
Sec. 15, E½NW¼;
Sec. 20, NW¼SE¼, S½SE¼;
Sec. 22, W½SE¼;
Sec. 25, NW¼NE¼;
Sec. 30, SW¼.
T. 42 N., R. 4 W.,
Sec. 2, SE¼SE¼;
Sec. 7, S½SW¼, W½SW¼SE¼;
Sec. 8, S½NW¼, N½SW¼;
Sec. 11, E½NE¼, SW¼NE¼;
Sec. 12, E½NW¼, SE¼SW¼;
Sec. 13, NW¼SE¼, SE¼SW¼;
Sec. 18, NW¼, W½SW¼;
Sec. 33, SE¼NE¼;
Sec. 34, SW¼NE¼, NW¼SW¼, NE¼SE¼.
T. 42 N., R. 5 W.,
Sec. 17, N½NE¼;
Sec. 19, SE¼SW¼ (lot 5);
Sec. 20, NW¼SW¼ (lot 2).

The areas described aggregate 2,827.16 acres.

JOHN A. CARVER, Jr.,
*Assistant Secretary of the Interior.*

OCTOBER 17, 1963.

[F.R. Doc. 63-11225; Filed, Oct. 23, 1963; 8:46 a.m.]

# Title 50—WILDLIFE AND FISHERIES

## Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

### PART 32—HUNTING

### Seney National Wildlife Refuge, Michigan

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Seney National Wildlife Refuge, Michigan, is permitted only on the area designated by signs as open to hunting. This open area, comprising 85,200 acres or 89 percent of the total refuge area, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: White-tailed deer and bear during the season specified below. The hunting of big game species, as may be otherwise authorized by Michigan State regulations, is prohibited.

(b) Open season: From 6:00 a.m. to 7:00 p.m. e.s.t. each day from November 9, 1963, through November 24, 1963.

(c) Bag limits: Deer and bear—one per person per season. Deer must be a male with antlers extending at least three (3) inches above the skull, except that hunters possessing a valid 1963 special deer hunting permit may take one deer of any age and of either sex.

(d) Methods of hunting:

(1) Weapons—legal firearms or bow and arrow. No .22 caliber rim fire rifles permitted; no crossbows permitted.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to November 25, 1963.

URBAN C. NELSON,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

OCTOBER 16, 1963.

[F.R. Doc. 63-11217; Filed, Oct. 23, 1963; 8:46 a.m.]

## PART 32—HUNTING

### National Wildlife Refuges, Minnesota

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

MINNESOTA

AGASSIZ NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Agassiz National Wildlife Refuge, Minnesota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 58,050 acres or 96 percent of the total refuge area, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: White-tailed deer only during the season specified below.

(b) Open season: From sunrise to sunset November 9, 1963, through November 17, 1963.

(c) Bag limit: One deer per person per season, any age or sex.

(d) Methods of hunting:

(1) Weapons—deer may be taken with legal firearms or bow and arrow. Rifles must be .23 caliber or larger and cartridges must be 1¾ inches in length or longer, unless the gun is of .35 caliber or larger. Cartridges must contain a soft point or expanding bullet. Shotguns may be used with a single slug. Buckshot or fine shot is prohibited. Arrowheads must be of all steel barbless design, blade or blades must be not less than one inch wide for single, two edge blades and not less than three inch circumference for three or more blades, minimum weight of all types 110 grains. Bows must have a pull of not less than 40 pounds at full draw.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to November 18, 1963.

RICE LAKE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Rice Lake National Wildlife Refuge, Minnesota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 5,000 acres or 33 percent of the total refuge area, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: White-tailed deer only during the season specified below.

(b) Open season: From sunrise to sunset November 9, 1963, through November 17, 1963.

(c) Bag limit: One deer per person per season, any age or sex.

(d) Methods of hunting:

(1) Weapons—deer may be taken with legal firearms or bow and arrow. Rifles must be .23 caliber or larger and cartridges must be 1¾ inches in length or longer, unless the gun is of .35 caliber or larger. Cartridges must contain a soft point or expanding bullet. Shotguns may be used with a single slug. Buckshot or fine shot is prohibited. Arrowheads must be of all steel barbless design, blade or blades must be not less than one inch wide for single, two edge blades and not less than three inch circumference for three or more blades, minimum weight of all types 110 grains. Bows must have a pull of not less than 40 pounds at full draw.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to November 18, 1963.

TAMARAC NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Tamarac National Wildlife Refuge, Minnesota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 31,800 acres or 93 percent of the total refuge area, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: White-tailed deer only during the season specified below.

(b) Open season: From sunrise to sunset November 9, 1963, through November 13, 1963.

(c) Bag limit: One deer per person per season, any age or sex.

(d) Methods of hunting:

(1) Weapons—deer may be taken with legal firearms or bow and arrow. Rifles must be .23 caliber or larger and cartridges must be 1¾ inches in length or longer, unless the gun is of .35 caliber or larger. Cartridges must contain a soft point or expanding bullet. Shotguns may be used with a single slug. Buckshot or fine shot is prohibited. Arrowheads must be of all steel barbless design, blade or blades must be not less than one inch wide for single, two edge blades and not less than three inch circumference for three or more blades, minimum weight of all types 110 grains. Bows must have a pull of not less than 40 pounds at full draw.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to November 14, 1963.

URBAN C. NELSON,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

OCTOBER 16, 1963.

[F.R. Doc. 63-11218; Filed, Oct. 23, 1963; 8:46 a.m.]

# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

### Bureau of Customs

### [ 19 CFR Part 1 ]

### GRAND PORTAGE AND PIGEON RIVER, MINNESOTA

### Notice of Proposed Designation and Revocation as Customs Port of Entry

OCTOBER 16, 1963.

A new bridge and border crossing has been constructed at the point where Highway No. 17 crosses the Minnesota-Canada border. The new bridge and border crossing will replace the existing one now known as Pigeon River Bridge and located at the point where Highway No. 61 crosses the Minnesota-Canada border.

In order to provide for the efficient processing of international traffic at the new bridge and border crossing, it is proposed to revoke the designation of Pigeon River Bridge as a port of entry and at the same time to designate an area adjacent to the new bridge in northeastern Minnesota as a port of entry. The new port of entry will be known as Grand Portage.

Accordingly, notice is hereby given pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003) that under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623 (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authorization given to me by Treasury Department Order No. 190, Rev. 1 (26 F.R. 11877), it is proposed to revoke the designation of Pigeon River Bridge, Minnesota, as a customs port of entry in Customs Collection District No. 36 (Duluth-Superior).

It is further proposed to designate Section 30, and the northwest and southwest ¼ of Section 29, Township 64 North, Range 7 East, in the State of Minnesota, as a port of entry in Customs Collection District No. 36 (Duluth-Superior). This new port of entry shall be referred to as Grand Portage.

Data, views, or arguments with respect to the proposed revocation and designation of the above-mentioned customs ports of entry may be addressed to the Commissioner of Customs, Washington, D.C., 20226. To assure consideration of such communications, they must be received in the Bureau of Customs not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearings will be held.

[SEAL] JAMES A. REED,
*Assistant Secretary of the Treasury.*

[F.R. Doc. 63-11249; Filed, Oct. 23, 1963; 8:47 a.m.]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 980 ]

### ONION IMPORTS

### Notice of Proposed Rule Making

Notice is hereby given of a proposed change in the grade requirements for yellow and white varieties of onions imported into the United States. This import regulation is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, Washington, D.C., 20250, not later than 10 days following publication of this notice in the FEDERAL REGISTER. The proposal is as follows:

In § 980.102 *Onion import regulation* (28 F.R. 9503), delete the introductory paragraph and paragraphs (a) and (h), and substitute in lieu thereof a new introductory paragraph and new paragraphs (a) and (h) as set forth below. Paragraph (b) is republished for information.

**§ 980.102 Onion import regulation.**

Except as otherwise provided, during the period from November 18, 1963, through June 30, 1964, no person shall import dry onions of the yellow and white varieties unless such onions are inspected and meet the requirements of this section.

(a) *Minimum grade and size requirements*—(1) *Yellow varieties.* U.S. No. 1 grade, 2 inches minimum diameter.

(2) *White varieties.* U.S. No. 1 grade, 1½ inches minimum diameter; or U.S. No. 2 grade, 1 inch minimum to 2 inches maximum diameter.

(b) *Condition.* Due consideration shall be given to the time required for transportation and entry of onions into the United States. Onions with transit time from country of origin to entry into the United States of ten or more days may be entered if they meet an average tolerance for decay of not more than 5 percent, provided they also meet the requirements of this section.

* * * * *

(h) *Definitions.* For the purpose of this section, "Onions" means all varieties of Allium cepa marketed dry, except dehydrated, canned and frozen onions, onion sets, green onions, and pickling onions. Onions commonly referred to as "braided," that is, with tops, may be imported if they meet the grade and size requirements except for top length. The terms "U.S. No. 1" and "U.S. No. 2" have the same meaning as set forth in the United States Standards for Grades of Onions (§§ 51.2830–51.2850 of this title). Tolerances for size are those in the United States Standards. Onions meeting the requirements of Canada No. 1 and No. 2 grades are deemed to comply with the requirements of U.S. No. 1 and No. 2 grades, respectively. "Importation" means release from custody of the United States Bureau of Customs.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 21, 1963.

FLOYD F. HEDLUND,
*Director,*
*Fruit and Vegetable Division.*

[F.R. Doc. 63-11261; Filed, Oct. 23, 1963; 8:48 a.m.]

### [ 7 CFR Part 987 ]

### DOMESTIC DATES PRODUCED OR PACKED IN DESIGNATED AREA OF CALIFORNIA

### Proposed Additional Size Regulations for Deglet Noor Variety Dates

NOTICE OF PROPOSED MODIFICATION

Notice is hereby given of a recommendation by the Date Administrative Committee that § 987.204 be revised so as to relax the size regulation applicable to dates of the Deglet Noor variety, effective pursuant to § 987.40 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The current size regulation applicable to dates of the Deglet Noor variety became effective August 2, 1963 (§ 987.204, 28 F.R. 7890). Thereafter, the California date crop was damaged by rain to such an extent as to cause a greater quantity of Deglet Noor dates to fail to meet the size requirements than anticipated at the time the regulation was established. Thus, the continuation in effect of the current size regulation would unduly reduce the total quantity of marketable dates. In view of these circumstances, the Committee proposed a modification, by way of relaxation, of the size regulation as hereinafter set forth.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250, not later than the tenth day after the date of publication of this notice in the FEDERAL REGISTER.

The proposal is as follows:

1. Revise the heading Subpart—Additional Grade Regulations to read Subpart—Additional Grade and Size Regulations.

2. Revise § 987.204 (28 F.R. 7890) to read as follows:

**§ 987.204 Additional size regulations.**

(a) *Whole dates handled as free dates.* Except as otherwise provided in this section, whole dates of the Deglet Noor variety shall not be handled as free dates unless the individual dates in the representative samples of the lot weighs not less than 7.5 grams for dry or natural whole dates or not less than 8.0 grams for hydrated whole dates, except that not more than 10 percent, by weight, of the dates in the samples of the lot may consist of individual dates that weigh less than the applicable specified weight.

(b) *Whole dates withheld to meet restricted obligation.* Except as otherwise provided in this section and exclusive of dates for export to approved countries other than Mexico, whole dates of the Deglet Noor variety eligible to be withheld (as marketable dates) from handling to meet restricted obligation pursuant to § 987.45, shall be such that the individual dates in the representative samples of the lot weigh not less than 6.5 grams for dry or natural whole dates, or not less than 6.9 grams for hydrated whole dates, except that not more than 10 percent, by weight, of the dates in the samples of the lot may consist of individual dates that weigh less than the applicable specified weight. For Deglet Noor dates withheld from handling pursuant to § 987.45 that are to be exported to any approved country other than Mexico, the size requirements specified in paragraph (a) of this section for dates to be handled as free dates shall apply.

(c) *Pitted dates.* The requirements of this section as to the weight of dates shall also apply to pitted dates of the Deglet Noor variety but on the basis of the whole date equivalent (i.e., weight) determined in accordance with § 987.174 as follows: The weight of the pitted dates shall be adjusted to the whole date equivalent by dividing the weight of the pitted dates by 0.875.

(d) *Effect on other provisions.* The requirements of this section are additional to, and do not supersede, the requirements as to uniformity of size specified in the particular grades of the United States Standards for Grades of Dates (§ 52.1001–52.1011 of this title) prescribed in § 987.203 of this subpart.

(e) *Exemption.* Any handler holding graded dates of the Deglet Noor variety on July 31, 1963, shall be exempt from the provisions of this section on a quantity of Deglet Noor dates equal to the quantity of such graded dates so held by him on July 31, 1963.

Dated: October 18, 1963.

FLOYD F. HEDLUND,
*Director,*
*Fruit and Vegetable Division.*

[F.R. Doc. 63–11237; Filed, Oct. 23, 1963; 8:47 a.m.]

# FEDERAL AVIATION AGENCY

## [ 14 CFR Part 71 [New] ]

[Airspace Docket No. 63–WE–70]

## SEGMENT OF FEDERAL AIRWAY

### Proposed Revocation

Notice is hereby given that the Federal Aviation Agency (FAA) is considering an amendment to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

VOR Federal airway No. 248 is designated in part from Avenal, Calif., to Bakersfield, Calif., with a south alternate segment designated from the Avenal VOR via the intersection of the Avenal VOR 145° and the Bakers VOR 243° True radials to the Bakersfield VOR.

The FAA is considering the revocation of V–248 south alternate segment from Avenal to Bakersfield as it appears that it is no longer needed for air traffic control purposes. The latest FAA IFR peak day airway traffic survey shows no aircraft movements on V–248 south alternate. Therefore, it appears that the south alternate segment of V–248 between Avenal and Bakersfield is unjustified as an assignment of airspace.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attn: Chief, Air Traffic Branch, Federal Aviation Agency, Western Region Area Office, P.O. Box 45018, Los Angeles, California, 90045. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Air Traffic Branch, Western Region Area Office, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington, D.C., 20553. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington, D.C., 20553. An informal Docket will also be available for examination at the office of the Branch Chief, Western Region Area Office.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on October 17, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63–11205; Filed, Oct. 23, 1963; 8:45 a.m.]

# FEDERAL POWER COMMISSION

## [ 18 CFR Part 35 ]

[Docket No. R–248]

## RATE SCHEDULE FILINGS BY PUBLIC UTILITIES AND LICENSEES

### Notice of Proposed Rulemaking

OCTOBER 17, 1963.

1. Notice is given pursuant to section 4 of the Administrative Procedure Act that the Commission is proposing to amend Part 35 of the regulations under the Federal Power Act, as amended by Order No. 271, effective November 1, 1963 (28 F.R. 10572), to prescribe revised regulations governing the filing of certain rate increases by public utilities and licensees and to provide for the submittal of additional copies of rate schedule filings.

2. The proposed revision provides for the filing of testimony and exhibits in support of rate schedule increases exceeding $100,000 in one year. It provides that the testimony and exhibits shall be such that they could serve as the company's case-in-chief in the event the matter is set for hearing. The company may frame its case as it sees fit, but must include, in addition, full cost of service data as set forth in § 35.13(b)(4)(iv) and additional rate of return data necessary to prepare for a hearing.

The purpose of this revision is to further expedite processing of rate schedule filings involving major rate increases. The Commission considers that the public interest will best be served by full hearing of rate increases exceeding $100,000.

One additional copy of all rate schedule submittals is required to be sent to the Federal Power Commission regional office for the region in which the utility is located, pursuant to section 35.7, in order that the regional offices may more effectively assist in the processing of rate schedule filings.

3. Any person may submit to the Federal Power Commission, Washington, D.C., 20426, not later than November 27, 1963, data, views, comments and suggestions in writing concerning the proposed revised regulations. An original and nine conformed copies of any such submittals should be filed. The Commission will consider any such written submittals before acting on the proposed revised regulations.

4. The proposed revisions and amendments to the Commission's regulations under the Federal Power Act as herein described and set forth below are proposed to be issued under the authority granted the Federal Power Commission by the Federal Power Act, particularly sections 19, 20, 41 Stat. 1073; sections 205, 206, 208 and 309, 49 Stat. 851, 852, 853, 858; 16 U.S.C. 812, 813, 824d, 824e, 824g, and 824h.

5. For the reasons stated above, it is proposed to amend Part 35, Filing of Rate Schedules, Subchapter B—Regulations under the Federal Power Act, Chapter I, Title 18, of the Code of Federal Regulations, by making the following additions:

A. In § 35.13(b), add subparagraphs (4)(v) and (5) to read as follows:

(v) To the extent that testimony and exhibits required to be filed pursuant to subparagraph (5) of this paragraph duplicate information required to be submitted pursuant to this subparagraph, such information need only be submitted with the testimony and exhibits filed pursuant to subparagraph (5) of this paragraph.

* * * * *

(5) (i) A utility filing for an increase in rates or charges shall be prepared to go forward at a hearing on reasonable notice on the data which have been submitted and sustain the burden of proof, imposed by the Federal Power Act, of establishing that its proposed charges are just and reasonable and not unduly discriminatory or preferential or otherwise unlawful within the meaning of the Act. The Commission is desirous of avoiding delay in processing rate filings. To this end, if the rate schedule provides for an increase in rate which exceeds $100,000 in revenues for the test period, the filing utility shall submit, as a part of the filing, testimony and exhibits of such composition, scope and format that it could serve as the Company's case-in-chief in the event the matter is set for hearing. In addition to whatever material the utility chooses to submit as part of its case, except for increases resulting from changes made in fuel clauses and increases of rates comprising an integral part of coordination and interchange arrangements in the nature of power pooling transactions, the exhibits shall include full cost of service data, as identified in subparagraph (4)(iv) (Statements A through O), of this paragraph, and the accompanying testimony should include an explanation of these exhibits: *Provided, however,* In lieu of the information required in Statement G, the following information shall be supplied:

*Rate of return.* Show the percentage rate of return claimed, with a brief statement of the basis therefor. Additionally, the following data should be furnished: [1]

(a) *Debt capital.* Show for each class and series of long-term debt outstanding as of the date of the most recently available balance sheet:

(1) Title.

(2) Date of issuance and date of maturity. If callable, call price and date.

(3) Interest rate.

(4) Gross proceeds from issue. Underwriters discount or commission: Amount; percent gross proceeds. Issuance expenses: Amount; percent gross proceeds. Net proceeds. Net proceeds per unit.

(5) Cost of money and yield to maturity based on the interest rate and net proceeds per unit outstanding determined by reference to any generally accepted table of bond yields.

(6) If issue is owned by an affiliate, state name and relationship of owner.

(7) Show weighted average cost of debt capital as determined from the foregoing detail.

(b) *Preferred stock capital.* Show for each class and series of preferred stock outstanding as of the date of the most recently available balance sheet:

(1) Title.

(2) Date of issuance.

(3) If callable, call price and date.

(4) If convertible, terms of conversion.

(5) Dividend rate.

(6) Par or stated value of issue and number of shares.

(7) Gross proceeds from issue. Underwriters discount or commission: Amount; percent gross proceeds. Issuance expenses: Amount; percent gross proceeds. Net proceeds. Net proceeds per unit or share.

(8) Cost of money. Dividend rate divided by net proceeds per unit or share.

(9) Was issue offered to stockholders through subscription rights or to the public?

(10) If issue is owned by an affiliate, state name and relationship of owner.

(11) Show weighted average cost of preferred stock capital as determined from the foregoing detail.

(c) *Common stock capital.* Show for each sale of common stock during the five-year period preceding the date of the most recently available balance sheet:

(1) Date of sale.

(2) Number of shares sold.

(3) Par or stated value of shares sold.

(4) Gross proceeds at offering price. Underwriters' discount or commission: Amount; percent gross proceeds. Issuance expenses: Amount; percent gross proceeds. Net proceeds: Offering price per share; net proceeds per share.

(5) Book value per share at date immediately prior to date of issuance.

(6) Closing market price per share at latest trading date prior to date of issuance.

(7) Latest published earnings per share at date of issuance.

(8) Dividend rate at date of issuance.

(9) Was issue offered to stockholders through subscription rights or to the public? Give information respecting any stock dividends, stock splits, or changes in par or stated value during five-year period preceding date of most recent balance sheet.

(10) If issue is owned by an affiliate, state name and relationship of owner.

(11) The following information on outstanding common stock for each of the five calendar years preceding the date of the most recently available balance sheet:

| Years | Average number of shares outstanding | Book value (per share) | Annual earnings (per share) | Annual dividend (rate per share) | Dividends (percent earnings) | Average market price, basis monthly, high-low | Earnings price ratio [1] | Dividend price ratio [2] |
|---|---|---|---|---|---|---|---|---|
| 1 | | | | | | | | |
| 2 | | | | | | | | |
| 3 | | | | | | | | |
| 4 | | | | | | | | |
| 5 | | | | | | | | |

[1] Relationship of annual earnings per share to average of the 12 monthly high-low market values of stock. In the case of monthly data, use latest reported earnings in computing ratio of earnings to average high-low market value for month.

[2] Relationship of dividend per share to average high-low market value of stock.

(d) List and describe the issue dates and terms of any stock options or option warrants outstanding; include the price or prices at which they are exercisable, the dates of subscription price changes and the dates of expiration of the subscription privileges.

If issued in connection with any particular security, identify the security, State in which issued, and whether or not detachable.

If the options or option warrants are not available for public subscription or purchase, furnish the names of the parties to whom they were issued and the number of warrants issued to each.

(ii) All data submitted pursuant to this subparagraph shall be based on a recent 12 months test period, as provided in subparagraph (4)(ii) of this paragraph.

(iii) Ten sets of the exhibits and testimony shall be submitted, each set securely bound in a cover.

B. The following sentence is proposed to be added to § 35.7(a): "In addition, one copy shall be mailed directly to the Federal Power Commission Regional Office for the region in which the filing utility is operating."

By direction of the Commission.

GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63-11214; Filed, Oct. 23, 1963; 8:46 a.m.]

[1] Where 50 percent or more of the common stock of the public utility is not held by the public but is owned by another corporation, the information here required in respect of debt capital and preferred stock capital shall be submitted to the extent applicable, and in addition the data described shall be submitted with respect to the debt, preferred stock and common stock of the parent company.

# INTERSTATE COMMERCE COMMISSION

## [ 49 CFR Parts 72, 73, 74, 77, 78 ]

[Docket No. 3666: Notice No. 60]

## EXPLOSIVES AND OTHER DANGEROUS ARTICLES

### Notice of Proposed Rule Making

OCTOBER 8, 1963.

The Commission is in receipt of applications for early amendment of the above-entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway. The proposed amendments and the reasons therefor are set forth below.

Applications for the proposed amendments have been the subject of exchanges and study by various interested parties, in which substantial agreement has been reached.

Any party desiring to make representations in favor of or against the proposed amendments may do so through the submission of written data, views, or arguments. The original and five copies of such submission may be filed with the Commission on or before November 7, 1963. The proposed amendments are

subject to change or changes that may be made as a result of such submissions.

Notice to the general public will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy of the notice with the Director, Office of the Federal Register.

(62 Stat. 738, 74 Stat. 808; 18 U.S.C. 834)

By the Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board.

[SEAL] HAROLD D. McCOY, *Secretary.*

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

Amend § 72.5(a) Commodity List (18 F.R. 6776, Oct. 27, 1953) (15 F.R. 8265, 8266, 8267, 8268, Dec. 2, 1950) as follows:

**§ 72.5 List of explosives and other dangerous articles.**

(a) * * *

| Article | Classed as— | Exemptions and packing (see sec.) | Label required if not exempt | Maximum quantity in 1 outside container by rail express |
|---|---|---|---|---|
| *(Change)* | | | | |
| Corrosive liquid, n.o.s. | Cor. L. | 73.244, 73.245 | White | 5 pints. |
| Methyl bromide and ethylene dibromide mixture, liquid. | Pois. B. | No exemption, 73.353 | Poison | 55 gallons. |
| *(Add)* | | | | |
| *Cement, adhesive, n.o.s. *See* Cement, liquid, n.o.s. | | | | |
| Etching acid liquid, n.o.s. | Cor. L. | No exemption, 73.299 | White | 10 pounds. |
| Flexible linear shaped charges, metal clad. | Expl. C. | No exemption, 73.104 | | 300 pounds. |
| Lithium hydride in solid forms | F. S. | No exemption, 73.206 | Yellow | 100 pounds. |

## PART 73—SHIPPERS

### Subpart A—Preparation of Articles for Transportation by Carriers by Rail Freight, Rail Express, Highway, or Water

In § 73.22 add paragraph (k) (15 F.R. 8277, Dec. 2, 1950) to read as follows:

**§ 73.22 Specification containers prescribed.**

* * * * *

(k) Where the regulations require spec. 6D or 37M (§ 78.102 or 78.134 of this chapter) cylindrical steel overpacks, spec. 5B, 6J or 37A (single-trip container) (§ 78.82, 78.100 or 78.131 of this chapter) metal drums manufactured prior to (effective date of Order 60), having inside spec. 2S, 2SL, 2T or 2 TL polyethylene container, may be continued in use for the commodities and gross weights for which they were previously authorized until further order of the Commission.

In § 73.28 add paragraph (k) (15 F.R. 8277, Dec. 2, 1950) to read as follows:

**§ 73.28 Reused containers.**

* * * * *

(k) Containers used for shipments of etching acid liquid, n.o.s. must not be reused for shipment of any commodity.

### Subpart B—Explosives; Definitions and Preparation

In § 73.86 amend paragraph (d)(1) (15 F.R. 8293, Dec. 2, 1950) to read as follows:

**§ 73.86 Samples of explosives and explosive articles.**

* * * * *

(d) * * *

(1) Samples of explosives including fireworks and explosive devices for laboratory examination must be packed in well-secured metal cans, glass bottles, conductive rubber, or compatible plastic containers, or in strong waterproof paper or cardboard packages; each sample must consist of not more than one-half pound of explosive, and the interior package must be placed in sawdust or similar cushioning material, at least 2 inches thick, in a wooden box, spec. 14 or 15A (§ 78.165 or 78.168 of this chapter).

In § 73.93 amend paragraph (e)(2), add paragraph (e)(3) (25 F.R. 1391, Oct. 29, 1960) (15 F.R. 8295, Dec. 2, 1950) to read as follows:

**§ 73.93 Propellant explosives (solid) for cannon, small arms, rockets, guided missiles, or other devices, and propellant explosives (liquid).**

* * * * *

(e) * * *

(2) Spec. 5B, 6A, 6B, 6C, 6D; also 17C or 17H (single-trip containers) (§ 78.82, 78.97, 78.98, 78.99, 78.102, 78.115, or 78.118 of this chapter). Metal barrel, drum, or cylindrical steel overpack, with inside spec. 2S (§ 78.35 of this chapter) polyethylene container, packed inside a strong, tight metal drum securely closed, or with inside glass-lined aluminum carboy not over 12 gallons capacity. Inside steel drum or glass-lined aluminum carboy must be surrounded on all sides with at least 2 inches of incombustible absorbent cushioning material uniformly distributed. Polyethylene containers are authorized only for liquids that will not react dangerously with the plastic or result in container failure.

(3) Outage requirements: Containers must not be entirely filled. Sufficient interior space must be left vacant to prevent leakage or distortion of containers due to the expansion of the contents from increase of temperature during transit.

* * * * *

In § 73.100 amend paragraphs (bb), (cc), (dd) (23 F.R. 7647, Oct. 3, 1958) (24 F.R. 3596, May 5, 1959) (24 F.R. 5639, July 14, 1959) to read as follows:

**§ 73.100 Definition of class C explosives.**

* * * * *

(bb) Detonating fuzes, class C explosives, are used in the military service to detonate high explosive bursting charges of projectiles, mines, bombs, torpedos, grenades, demolition charges, and safety and arming devices. They contain a detonator and a quantity of high explosives. Additionally they may be used by the military or commercial users to transmit a detonation between two or more devices. This type detonating fuze contains either an explosive train consisting of mild detonating fuse, metal clad, igniter fuse-metal clad or similar type fuses, and any combination of one or more boosters, detonators and high explosives in a total quantity not exceeding 25 grams of explosive composition. All detonating fuzes, class C explosives, must be made and packed so that they will not cause functioning of other fuzes, explosives, or other explosive devices if one of the fuzes detonates in a shipping container or in adjacent containers.

(cc) Mild detonating fuses, metal clad and flexible linear shaped charges, metal clad consists of a core containing not more than 2½ grains of high explosive composition per lineal foot, clad with metal either with or without a covering of tapes, yarns, plastics or waterproofing compounds. Mild detonating fuse, metal clad, and flexible linear shaped charges, metal clad, in lengths not over 26 feet and not exceeding 15 grains per lineal foot having the individual lengths separated from adjacent lengths so that mass propagation will not occur, may be shipped as class C explosives.

(dd) Igniter fuse-metal clad consists of a base metal tube with a core of high explosive composition in quantity not exceeding 20 grains per foot.

* * * * *

Amend entire § 73.104 (15 F.R. 8296, Dec. 2, 1950) (24 F.R. 3596, May 5, 1959) to read as follows:

**§ 73.104 Cordeau detonant fuse, mild detonating fuse, metal clad or flexible linear shaped charges, metal clad.**

(a) Cordeau detonant fuse, mild detonating fuse, metal clad or flexible linear shaped charges, metal clad must not be packed in the same package with detonators or with any high explosive.

(b) Cordeau detonant fuse, mild detonating fuse, metal clad or flexible linear shaped charges, metal clad, must be packed in wooden or fiberboard boxes.

(c) Each outside container must be plainly marked "CORDEAU DETONANT FUSE—HANDLE CAREFULLY," "MILD DETONATING FUSE, METAL CLAD—HANDLE CAREFULLY" or "FLEXIBLE LINEAR SHAPED CHARGES, METAL CLAD—HANDLE CAREFULLY" as the case may be.

## Subpart C—Flammable Liquids; Definition and Preparation

In § 73.119 add Note 1 to paragraph (a)(7); amend paragraphs (a)(17), (a)(24), (b)(8), (e)(3); add paragraph (m)(8) (15 F.R. 8298, 8300, Dec. 2, 1950). (23 F.R. 7647, Oct. 3, 1958) (25 F.R. 10392, Oct. 29, 1960) (24 F.R. 3596, May 5, 1959) to read as follows:

**§ 73.119 Flammable liquids not specifically provided for.**

(a) * * *

(7) * * *

NOTE 1: Spec. 12B fiberboard boxes (§ 78.205-26(a) of this chapter), with one inside rectangular metal can, spec. 2F (§ 78.25 of this chapter) not to exceed 5 gallons capacity, are authorized for gasoline only. Gross weight of completed package not over 65 pounds.

* * * * *

(17) Spec. MC 300, MC 301,[1] MC 302, MC 303, MC 304, MC 305, or MC 330 (§ 78.321, 78.323, 78.324, 78.325, 78.326 or 78.336 of this chapter). Tank motor vehicles.

(Note 1 remains the same.)

* * * * *

(24) Spec. 6D (§ 78.102 of this chapter). Cylindrical steel overpack with inside spec. 2S (§ 78.35 of this chapter) polyethylene container.

* * * * *

(b) * * *

(8) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. 2SL (§ 78.35a of this chapter) polyethylene container. Authorized only for materials that will not react with polyethylene and result in container failure.

* * * * *

(e) * * *

(3) Spec. MC 300, MC 301,[1] MC 302, MC 303, MC 304, MC 305 or MC 330 (§ 78.321, 78.323, 78.324, 78.325, 78.326 or 78.336 of this chapter). Tank motor vehicles.

* * * * *

(m) * * *

(8) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Authorized only for material which will not react dangerously with or cause decomposition of polyethylene.

In § 73.125 amend paragraph (a)(5) (21 F.R. 671, Jan. 31, 1956) to read as follows:

**§ 73.125 Alcohol.**

(a) * * *

(5) Spec. 6D (§ 78.102 of this chapter). Cylindrical steel overpack with inside spec. 2S (§ 78.35 of this chapter) polyethylene container.

* * * * *

In § 73.127 amend the introductory text of paragraph (a) (26 F.R. 9400, 9401, Oct. 6, 1961) to read as follows:

**§ 73.127 Nitrocellulose or collodion cotton, fibrous or nitrostarch, wet; nitrocellulose flakes; colloided nitrocellulose, granular, flake, or block, and lacquer base or lacquer chips, wet.**

(a) Nitrocellulose, fibrous, wet with alcohol or solvent, must contain at least 25 percent by weight of alcohol or a solvent with flash point not lower than 30° F.; collodion cotton, fibrous and nitrostarch, wet with alcohol or a solvent, must contain at least 30 percent by weight of alcohol or a solvent with flash point not lower than 30° F.; nitrocellulose flakes; colloided nitrocellulose, granular or flake; lacquer base or lacquer chips, wet with alcohol or a solvent, must contain at least 20 percent by weight of alcohol or a solvent with flash point not lower than 30° F., and nitrocellulose blocks wet with alcohol must contain at least 25 percent by weight of alcohol and must be packed in specification containers as follows:

* * * * *

In § 73.145 amend paragraph (a)(7) (24 F.R. 5639, July 14, 1959) to read as follows:

**§ 73.145 Dimethylhydrazine, unsymmetrical, and methylhydrazine.**

(a) * * *

(7) Spec. MC 300, MC 301,[1] MC 302, MC 303, MC 310 or MC 311 (§ 78.321, 78.323, 78.324, 78.330 or 78.331 of this chapter). Tank motor vehicles equipped with steel safety valves of approved design. Spec. MC 300, MC 301, MC 302, and MC 303 cargo tanks must not be equipped with bottom outlets. Authorized only for dimethylhydrazine, unsymmetrical.

## Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

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

**§ 73.187 Peroxide of sodium.**

(a) * * *

(4) Spec. 12A or 12B (§ 78.210 or 78.205 of this chapter). Fiberboard boxes with inside air-tight metal cans not over 5 pounds capacity each.

In § 73.188 amend paragraph (a)(6) (27 F.R. 11852, Dec. 1, 1962) to read as follows:

**§ 73.188 Phosphoric anhydride.**

(a) * * *

(6) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles of one-third fluid ounce capacity each. Each bottle shall be packed in a heat-sealed polyethylene or other suitable plastic bag of equal efficiency and not more than 75 such units shall be packed in a heat-sealed polyethylene or other suitable plastic bag of equal efficiency, which shall be placed in a securely closed metal can. Not more than 1 can shall be packed in one outside box.

In § 73.221 amend paragraph (a)(7) (23 F.R. 2325, Apr. 10, 1958) to read as follows:

**§ 73.221 Liquid organic peroxides, n.o.s. and liquid organic peroxide solutions, n.o.s. other than acetyl peroxide solution, acetyl benzoyl peroxide solution, cumene hydroperoxide, dicumyl peroxide, hydrogen peroxide, peracetic acid, and tertiary butylisopropyl benzene hydroperoxide.**

(a) * * *

(7) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. 2S (§ 78.35 of this chapter) polyethylene container. Authorized only for material which will not react dangerously with or cause decomposition of the polyethylene.

* * * * *

In § 73.222 add paragraph (a)(4) (15 F.R. 8312, Dec. 2, 1950) to read as follows:

**§ 73.222 Acetyl peroxide and acetyl benzoyl peroxide, solution.**

(a) * * *

(4) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures.

In § 73.223 add paragraph (a)(5) (15 F.R. 8312, Dec. 2, 1950) to read as follows:

**§ 73.223 Peracetic acid.**

(a) * * *

(5) Spec. 37M (§ 78.134 of this chapter). Cylindrical steel overpack (nonreusable container) with inside spec. 2SL (§ 78.35a of this chapter) polyethylene container not over 30 gallons capacity. Polyethylene container must have a vented closure capable of preventing leakage of liquid contents.

* * * * *

In § 73.238 amend the heading (27 F.R. 11852, Dec. 1, 1962) to read as follows:

**§ 73.238 Aircraft rocket engines (commercial) and/or aircraft rocket engine igniters (commercial).**

* * * * *

## Subpart E—Acids and Other Corrosive Liquids; Definition and Preparation

In § 73.245 amend paragraph (a)(16); add paragraph (a)(25) (25 F.R. 10393, Oct. 29, 1960) (15 F.R. 8313, Dec. 2, 1950) to read as follows:

**§ 73.245 Acids or other corrosive liquids not specifically provided for.**

(a) * * *

(16) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. 2S or 2SL (§ 78.35 or

[1] Use of existing cargo tanks authorized, but new construction not authorized.

78.35a of this chapter) polyethylene container.

* * * * *

(25) Spec. 12A or 12B (§ 78.210 or 78.205 of this chapter). Fiberboard boxes with inside aluminum containers not over 5 pounds capacity each. Aluminum containers must be approved by the Bureau of Explosives.

In § 73.257 amend paragraph (a) (13) (23 F.R. 4029, June 10, 1958) to read as follows:

**§ 73.257 Electrolyte (acid) or corrosive battery fluid.**

(a) * * *

(13) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. 2S (§ 78.35 of this chapter) polyethylene container.

* * * * *

In § 73.262 amend paragraphs (a) (10) and (b) (2) (25 F.R. 10393, Oct. 29, 1960) (26 F.R. 12703, Dec. 29, 1961) to read as follows:

**§ 73.262 Hydrobromic acid.**

(a) * * *

(10) Spec. 6D (§ 78.102 of this chapter). Cylindrical steel overpack with inside spec. 2S (§ 78.35 of this chapter) polyethylene container.

(b) * * *

(2) Spec. 6D (§ 78.102 of this chapter). Cylindrical steel overpack with inside spec. 2S (§ 78.35 of this chapter) polyethylene container.

* * * * *

In § 73.263 amend paragraphs (a) (17) and (20) (25 F.R. 10393, Oct. 29, 1960) to read as follows:

**§ 73.263 Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, sodium chlorite solution, and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.**

(a) * * *

(17) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. 2S or 2SL (§ 78.35 or 78.35a of this chapter) polyethylene container.

* * * * *

(20) Spec. 37M (§ 78.134 of this chapter). Cylindrical steel overpack (nonreusable container) with inside spec. 2T or 2TL (§ 78.21 or 78.27 of this chapter) polyethylene container.

* * * * *

In § 73.264 amend paragraphs (a) (17) and (18) (25 F.R. 10394, Oct. 29, 1960) to read as follows:

**§ 73.264 Hydrofluoric acid.**

(a) * * *

(17) Spec. 6D (§ 78.102 of this chapter). Cylindrical steel overpack with inside spec. 2S or 2SL (§ 78.35 or 78.35a of this chapter) polyethylene container. Authorized for acid not over 70 percent strength.

(18) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. T2 (§ 78.21 of this chapter) polyethylene container. Spec. 37M overpack of over 15 gallons capacity must be constructed of at least 20-gauge steel. Authorized for acid not over 70 percent strength.

* * * * *

In § 73.265 amend paragraph (d) (3) (25 F.R. 10394, Oct. 29, 1960) to read as follows:

**§ 73.265 Hydrofluosilicic acid.**

* * * * *

(d) * * *

(3) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. 2S or 2SL (§ 78.35 or 78.35a of this chapter) polyethylene container. Spec. 37M overpack shall be constructed of at least 20-gauge steel and shall not exceed 16 gallons capacity each.

* * * * *

In § 73.266 amend paragraphs (b) (6), (f) (2) (27 F.R. 3429, Apr. 11, 1962) (24 F.R. 5640, July 14, 1959) to read as follows:

**§ 73.266 Hydrogen peroxide solution in water.**

* * * * *

(b) * * *

(6) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. 2S or 2SL (§ 78.35 or 78.35a of this chapter) polyethylene container. The closures must be located in one head and must be vented to prevent accumulation of internal pressure and head plainly marked "KEEP THIS END UP" or "KEEP PLUG UP TO PREVENT SPILLAGE."

* * * * *

(f) * * *

(2) Spec. MC 310–$H_2O_2$ (§ 78.330 of this chapter). Tank motor vehicles. Tanks shall be welded construction of aluminum meeting the requirements of § 78.330–2(a) of this chapter having a minimum wall thickness of one-half inch, and must be built to a design working pressure of not less than 40 psig and shall be designed so that internal surfaces may be effectively cleaned and passivated; all openings to be located on top of tank; all valves and safety devices shall be provided with overturn protection and dust covers; metal identification plate required by § 78.330–17(a) of this chapter shall be marked "ICC MC 310–$H_2O_2$" and in addition the vehicle shall be clearly marked in letters not less than one inch high "FOR HYDROGEN PEROXIDE ONLY"; designs for venting and pressure relief devices must be approved by the Bureau of Explosives.

* * * * *

In § 73.272 amend paragraphs (f) (3) and (6) (25 F.R. 10394, Oct. 29, 1960) (24 F.R. 8058, Oct. 6, 1959) to read as follows:

**§ 73.272 Sulfuric acid.**

* * * * *

(f) * * *

(3) Spec. 6D or 37M (nonreusable container) (§ 78.102 or 78.134 of this chapter). Cylindrical steel overpacks with inside spec. 2S or 2SL (§ 78.35 or 78.35a of this chapter) polyethylene container. Overpack of 55 gallon capacity when used for sulfuric acid of 93 percent or greater concentration shall be constructed of at least 16-gauge steel throughout.

* * * * *

(6) Spec. 37M (nonreusable container) (§ 78.134 of this chapter). Cylindrical steel overpack with inside spec. 2T (§ 78.21 of this chapter) polyethylene container.

* * * * *

In § 73.274 amend paragraph (a) (2) (15 F.R. 8321, Dec. 2, 1950) to read as follows:

**§ 73.274 Fluosulfonic acid.**

(a) * * *

(2) Spec. 5A or 17F (single-trip) (§ 78.81 or 78.117 of this chapter). Metal barrels or drums not over 55 gallons capacity each.

* * * * *

In § 73.277 amend paragraph (a) (4) (21 F.R. 672, Jan. 31, 1956) to read as follows:

**§ 73.277 Hypochlorite solutions.**

(a) * * *

(4) Spec. 6D (§ 78.102 of this chapter). Cylindrical steel overpack with inside spec. 2S or 2SL (§ 78.35 or 78.35a of this chapter) polyethylene container. Authorized for not over 16 percent sodium hypochlorite solution only.

* * * * *

In § 73.288 add paragraph (c) (15 F.R. 8323, Dec. 2, 1950) to read as follows:

**§ 73.288 Allyl chloroformate, benzyl chloroformate, ethyl chloroformate, and methyl chloroformate.**

* * * * *

(c) Spec. 16D (§ 78.187 of this chapter). Wooden wirebound overwrap having one inside spec. 2SL (§ 78.35a of this chapter) polyethylene container not over 55 gallons capacity. Authorized for ethyl chloroformate or methyl chloroformate only.

In § 73.292 amend paragraph (a) (2) (24 F.R. 3598, May 5, 1959) to read as follows:

**§ 73.292 Hexamethylene diamine solution.**

(a) * * *

(2) Spec. MC 300, MC 301,[1] MC 302, MC 303, MC 304, MC 305, MC 310, or MC 311 (§ 78.321, 78.323, 78.324, 78.325, 78.326, 78.330, or 78.331 of this chapter). Tank motor vehicles.

Add entire § 73.299 (15 F.R. 8324, Dec. 2, 1950) to read as follows:

**§ 73.299 Etching acid liquid, n.o.s.**

(a) Etching acid liquid shall be a mixture of nitric acid, hydrofluoric acid, having nitric acid in concentrations of not more than 60 percent by weight, hydrofluoric acid in concentrations of not less than 4 percent by weight and water not less than 24 percent by weight, and may contain acetic acid. These mixtures must be packed in specification containers as follows:

---

[1] Use of existing cargo tanks authorized, but new construction not authorized.

(1) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside polyethylene bottles having minimum wall thickness of .050 inch and screw-cap closures. Net weight in inside containers shall not be over 10 pounds each and net weight in outside containers shall not be more than 40 pounds.

(2) Spec. 37M (§ 78.134 of this chapter). Cylindrical steel overpack with inside spec. 2S or 2SL (§ 78.35 or 78.35a of this chapter) polyethylene container not over 30 gallons capacity.

(b) All outside shipping containers must be plainly marked "NONREUSABLE CONTAINER." All components of the package must not be reused.

## Subpart F—Compressed Gases; Definition and Preparation

In § 73.308(a) amend Table (19 F.R. 8527, Dec. 14, 1954) to read as follows:

**§ 73.308 Compressed gases in cylinders.**

(a) * * *

| Kind of gas | Maximum permitted filling density (see Note 12) (percent) | Cylinders (see Note 11) marked as shown in this column must be used except as provided in Note 1 and § 73.34 (a) to (e) |
|---|---|---|
| *(Change)* | | |
| Hydrogen sulfide | 62.5 | ICC-3A480; ICC-3AA480; ICC-3B480 ICC-4A480; ICC-4B480; ICC-4BA480; ICC-26-480; ICC-3E1800. |

* * * * *

## Subpart G—Poisonous Articles; Definition and Preparation

In § 73.346 amend paragraphs (a) (12) and (20) (24 F.R. 3598, May 5, 1959) (24 F.R. 10111, Dec. 15, 1959) to read as follows:

**§ 73.346 Poisonous liquids not specifically provided for.**

(a) * * *

(12) Spec. MC 300, MC 301,[2] MC 302, MC 303, MC 304, MC 305, MC 310, or MC 311 (§ 78.321, 78.323, 78.324, 78.325, 78.326, 78.330 or 78.331 of this chapter). Tank motor vehicles.

* * * * *

(20) Spec. 6D (§ 78.102 of this chapter). Cylindrical steel overpack with inside spec. 2S (§ 78.35 of this chapter) polyethylene container. Authorized only for materials that will not react with polyethylene and result in container failure.

* * * * *

In § 73.347 amend paragraph (a) (3) (24 F.R. 3598, May 5, 1959) to read as follows:

**§ 73.347 Aniline oil.**

(a) * * *

(3) Spec. MC 300, MC 301,[1] MC 302, MC 303, or MC 305 (§ 78.321, 78.323, 78.324 or 78.326 of this chapter). Tank motor vehicles.

* * * * *

In § 73.352 amend paragraph (a) (5) (24 F.R. 3598, May 5, 1959) to read as follows:

**§ 73.352 Liquid sodium or potassium cyanide.**

(a) * * *

(5) Spec. MC 300, MC 301,[1] MC 302, MC 303 or MC 305 (§ 78.321, 78.323, 78.324, or 78.326 of this chapter). Tank motor vehicles.

In § 73.353 add paragraph (a) (5) Note 1 (15 F.R. 8335, Dec. 2, 1950) to read as follows:

**§ 73.353 Methyl bromide, liquid (bromomethane), mixtures of methyl bromide and ethylene dibromide, liquid, mixtures of methyl bromide and chlorpicrin, liquid, or methyl bromide and nonflammable, nonliquefied compressed gas mixtures, liquid.**

(a) * * *

(5) * * *

NOTE 1: Tanks complying with ICC–106A (§ 78.275 or 78.276 of this chapter) specification may be transported in or on motor vehicles and in the manner authorized in § 77.840(c) of this chapter, provided adequate facilities are present for handling tanks where transfer in transit is necessary. Tanks must be securely chocked or clamped thereon to prevent shifting.

* * * * *

In § 73.354 amend paragraph (a) (5) Note 1 (22 F.R. 7838, Oct. 3, 1957) to read as follows:

**§ 73.354 Motor fuel antiknock compound or tetraethyl lead.**

(a) * * *

(5) * * *

NOTE 1: Spec. MC 300, MC 301,[1] MC 302 or MC 303 (§ 78.321, 78.323, or 78.324 of this chapter) tank motor vehicles in motor fuel antiknock compound service prior to October 1, 1955 may be continued in service.

* * * * *

In § 73.369 amend paragraph (a) (14) and (b) (1) (24 F.R. 3598, May 5, 1959) (28 F.R. 4498, May 4, 1963) to read as follows:

**§ 73.369 Carbolic acid (phenol), not liquid.**

(a) * * *

(14) Spec. MC 300, MC 301,[1] MC 302, MC 303, MC 305, MC 310 or MC 311 (§ 78.321, 78.323, 78.324, 78.326, 78.330 or 78.331 of this chapter). Tank motor vehicles.

* * * * *

(b) * * *

(1) In inside glass, earthenware, polyethylene or other nonfragile plastic bottles or jars not over 1 pound capacity each, or metal containers not over 5 pounds capacity each, packed in outside wooden boxes, barrels or kegs, or fiberboard boxes. Net weight of contents in fiberboard boxes shall not exceed 65 pounds; and not more than 100 pounds in wooden boxes, barrels or kegs.

[2] Use of existing cargo tanks authorized, but new construction not authorized.

# PART 74—CARRIERS BY RAIL FREIGHT

## Subpart A—Loading, Unloading, Placarding and Handling Cars; Loading Packages Into Cars

In § 74.525 amend paragraphs (c) (3) Certificate, and (4) (21 F.R. 9358, Nov. 30, 1956) to read as follows:

**§ 74.525 Loading packages of explosives in cars, selection, preparation, inspection, and certification.**

* * * * *

(c) * * *

(3) * * *

---------- Railroad

CAR CERTIFICATE

No. 1 ---------- Station, ----------, 19--

I hereby certify that I have this day personally examined Car Number ------ and that, as applicable to the type of car, there are no holes or other openings in the roof, sides, ends or car lining, through which sparks might enter; that the floor is clean and in good condition and it and the car lining are free of projecting uncovered pieces of metal or nails; that I have examined all the journal boxes and that they are properly covered, packed and oiled and that the air brakes and hand brakes are in condition for service.

----------
(Railway employee inspecting car)

No. 2 ---------- Station, ----------, 19--

I have this day personally examined the above car and hereby certify that the explosives in or on this car; or in or on vehicles or in containers; have been loaded and braced, and that placards have been applied, according to the regulations prescribed by the Interstate Commerce Commission; that the doors of cars so equipped fit or have been stripped so that sparks cannot enter.

----------
(Shipper or his authorized agent)

----------
(Railway employee inspecting bracing)

NOTE 1: A shipper must decline to use a car not in proper condition.

No. 3 ---------- Station, ----------, 19--

I hereby certify that I have this day personally supervised the loading of the vehicles or containers on and their securement to the above car. This has been completed in accordance with recommended methods.

----------
(Shipper or railway employee inspecting loading and securement)

NOTE 1: All certificates, where applicable, must be signed.

(4) Car certificates remaining on hand and which were authorized by regulations in effect prior to (effective date of order), may be used for closed car inspections until stocks are exhausted.

## Subpart B—Loading and Storage Chart of Explosives and Other Dangerous Articles

In § 74.538 paragraph (a) Chart, amend item "c", vertical and horizontal

columns (21 F.R. 9359, Nov. 30, 1956) to read as follows:

**§ 74.538 Loading and storage chart of explosives and other dangerous articles.**

(a) * * *

"c" Initiating or priming explosives, wet: Diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene, lead mononitroresorcinate.

* * * * *

## PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

### Subpart B—Loading and Unloading

In § 77.841 amend paragraph (c) Note 1 (27 F.R. 6740, July 17, 1962) to read as follows:

**§ 77.841 Poisons.**

* * * * *

(c) * * *

NOTE 1: Tanks complying with ICC–106A (§ 78.275 or 78.276 of this chapter) specification containing nitrogen dioxide, liquid, nitrogen peroxide, liquid, nitrogen tetroxide, liquid, phosgene, nitrogen tetroxide-nitric oxide mixtures containing up to 33.2 percent weight nitric oxide, or class B poisonous liquids specified in § 73.353(a) of this chapter may be transported in or on motor vehicles and in the manner authorized in § 77.840(c), provided adequate facilities are present for handling tanks where transfer in transit is necessary. Tanks must be securely chocked or clamped thereon to prevent shifting.

* * * * *

### Subpart C—Loading and Storage Chart of Explosives and Other Dangerous Articles

In § 77.848 paragraph (a) Chart, amend items "c" and "14", vertical and horizontal columns (21 F.R. 9361, Nov. 30, 1956) to read as follows:

**§ 77.848 Loading and storage chart of explosives and other dangerous articles.**

(a) * * *

"c" Initiating or priming explosives, wet: Diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene, lead mononitrorescorcinate.

* * * * *

"14" Poisonous gases or liquids in tank car tanks, cylinders, projectiles or bombs, poison gas label.

* * * * *

## PART 78—SHIPPING CONTAINER SPECIFICATIONS

### Subpart B—Specifications for Inside Containers and Linings

In § 78.24–3 amend paragraph (a) (25 F.R. 3105, Apr. 12, 1960) to read as follows:

**§ 78.24 Specification 2U; molded or thermoformed polyethylene containers having rated capacity of over one gallon.**

**§ 78.24–3 Construction and capacity.**

(a) Container must be constructed in accordance with the following table:

| Rated capacity not over (gallons) | Minimum overall thickness (inch) [1] | Percent outage over marked capacity permitted |
|---|---|---|
| 5 | 0.010 | 15 |
| 15 | .015 | 15 |
| 55 | .015 | 5 |

(No change in footnote.)

* * * * *

### Subpart D—Specifications for Metal Barrels, Drums, Kegs, Cases, Trunks and Boxes

In § 78.82–7 paragraph (a) Table, cancel Footnotes 4, 5, and 6 and delete reference thereto under table heading; cancel § 78.82–15 (25 F.R. 10402, Oct. 29, 1960) (26 F.R. 4997, June 6, 1961) as follows:

**§ 78.82 Specification 5B; steel barrels or drums.**

**§ 78.82–7 Parts and dimensions.**

(a) * * *

[4] Canceled.
[5] Canceled.
[6] Canceled.

**§ 78.82–15 Type and leakage tests not required. [Canceled]**

In § 78.100–5 paragraph (a) Table, cancel Footnotes 2, 3, 4, and 5 and delete reference thereto in the table heading; in § 78.100–7 amend paragraph (b) and cancel Note 2; cancel § 78.100–12 (25 F.R. 10402, Oct. 29, 1960) (26 F.R. 4998, June 6, 1961) (21 F.R. 675, Jan. 31, 1956) (24 F.R. 3599, May 5, 1959) as follows:

**§ 78.100 Specification 6J; steel barrels and drums.**

**§ 78.100–5 Parts and dimensions.**

(a) * * *

[2] Canceled.
[3] Canceled.
[4] Canceled.
[5] Canceled.

**§ 78.100–7 Closures.**

* * * * *

(b) Closing part (plug, cap, plate, etc., see Note 1) must be of metal as thick as prescribed for head of container; this not required for containers of 12 gallons or less when the opening to be closed is not over 2.3 inches in diameter. If unthreaded cap is used, it must be provided with outside sealing devices which cannot be removed without destroying the cap or sealing device.

(Note 1 remains unchanged.)

* * * * *

Note 2: Canceled.

**§ 78.100–12 Type test not required. [Canceled.]**

Add entire § 78.102 (15 F.R. 8446, Dec. 2, 1950) to read as follows:

**§ 78.102 Specification 6D; cylindrical steel overpack, straight sided, for inside plastic container.**

**§ 78.102–1 Material requirements.**

(a) Sheets for body and heads to be low carbon, open hearth or electric steel.

**§ 78.102–2 Construction requirements.**

(a) Construction requirements are as follows:

| Rated capacity of inside plastic container not over (gallons) | Minimum thickness, uncoated sheets (gauge) | | Body seams | Rolling hoops | Top or bottom head | Closures, when full removable head is used (gaskets not required) |
|---|---|---|---|---|---|---|
| | Body sheet | Head sheet | | | | |
| 5 | 24 | 24 | Welded | None required | Double seamed or welded. | Lug or plain ring seal. |
| 15 | 20 | 20 | do | Rolled or swedged | do | Do. |
| 30 | 19 | 19 | do | do | do | Bolted type ring closure, 18 gauge. |
| 55 | 18 | 18 | do | Rolled or swedged, or I-Bars, ¾" x 1¼". | do | Bolted type ring closure, 16 gauge. |

(b) Steel sheets or parts of specified gauges shall comply with the following:

| Gauge No. | Nominal thickness (inch) [1] | Minimum thickness (inch) [1] |
|---|---|---|
| 16 | 0.0598 | 0.0533 |
| 18 | .0478 | .0428 |
| 19 | .0418 | .0378 |
| 20 | .0359 | .0324 |
| 24 | .0239 | .0209 |

[1] Thickness shall be measured at any point on the sheet not less than ⅜ inch from an edge.

(c) Two holes not exceeding ¼ inch each are permitted diametrically opposite each other in the overpack body immediately above the double seam of the bottom chime or three holes not exceeding 3/16 inch in diameter on centers 120 degrees apart in the bottom head.

(1) Overpack interior shall be free of projections, burrs, or any edges that might caues damage to inside plastic container and shall be free of lubricants, oils, or any foreign matter.

(2) Top head may have not more than two holes of suitable size to provide for protruding closures.

(3) Overpack shall be constructed to provide a snug fit for inside plastic container.

**§ 78.102–3 Tests.**

(a) Steel overpack when assembled as for use, shall withstand the tests prescribed in specifications for inside plastic containers as detailed in Part 78 when

authorized as combination packages in Part 73 of this chapter. The completed package must withstand these tests without producing a condition of the overpack that could result in potential damage to the inside container.

**§ 78.102–4 Markings.**

(a) Marking on each container by embossing on bottom head with raised marks with letters and figures not less than ½ inch high as follows:

(1) ICC–6D. These marks shall be understood to certify the steel container complies with all construction requirements of this specification.

(2) Name or symbol (letters) of maker; this must be recorded with the Bureau of Explosives.

(3) Gauge of metal in thinnest part, rated capacity of inside container in gallons, and year of manufacture (for example, 18–55–62). When gauge of metal in body differs from that in either head, both must be indicated with slanting line between and with gauge of body indicated first (for example, 18/16–55–62 for body 18 gauge and head 16 gauge).

In § 78.131–6 paragraph (a) Table cancel footnotes 4, 5, 6, and 8, renumber footnote 7 as "4"; delete references to footnotes 4, 5, 6, and 8 in the Table headings; in the second column change footnote 7 to "4"; cancel § 78.131–12 (26 F.R. 1018, Feb. 2, 1961) (26 F.R. 4998, June 6, 1961) (24 F.R. 3600, May 5, 1959) to read as follows:

**§ 78.131 Specification 37A; steel drums.**

**§ 78.131–6 Capacities, weights, type, and gauges.**

(a) * * *

[5] Canceled.
[6] Canceled.
[8] Canceled.

* * * * *

**§ 78.131–12 Type test not required. [Canceled]**

Add entire § 78.134 (15 F.R. 8454, Dec. 2, 1950) to read as follows:

**§ 78.134 Specification 37M; cylindrical steel overpack, straight sided for inside plastic container.**

Nonreusable containers.

**§ 78.134–1 Material requirements.**

(a) Sheets for body and heads to be low carbon, open hearth or electric steel.

**§ 78.134–2 Construction requirements.**

(a) Construction requirements are as follows:

| Rated capacity of inside plastic container not over (gallons) | Minimum thickness, uncoated sheets (gauge) | | Body seams | Rolling hoops | Top or bottom head | Closures, when full removable head is used (gaskets not required) |
|---|---|---|---|---|---|---|
| | Body sheet | Head sheet | | | | |
| 5 | 26 | 26 | Welded | None required | Double seamed | Lug or plain ring seal. |
| 15 | 24 | 24 | do | Rolled or swedged | do | Do. |
| 30 | 24 | 24 | do | do | do | Bolted type ring closure, 18 gauge. |
| 55 | 24 | 24 | do | do | do | Bolted type ring closure, 16 gauge. |

(b) Steel sheets or parts of specified gauges shall comply with the following:

| Gauge No. | Nominal thickness (inch) [1] | Minimum thickness (inch) [1] |
|---|---|---|
| 16 | 0.0598 | 0.0533 |
| 18 | .0478 | .0428 |
| 24 | .0239 | .0209 |
| 26 | .0179 | .0159 |

[1] Thickness shall be measured at any point on the sheet not less than ⅜ inch from an edge.

(c) Two holes not exceeding ¼ inch each are permitted diametrically opposite each other in the overpack body immediately above the double seam of the bottom chime or three holes not exceeding 3/16 inch in diameter on centers 120 degrees apart in the bottom head.

(1) Overpack interior shall be free of projections, burrs, or any edges that might cause damage to inside plastic container and shall be free of lubricants, oils, or any foreign matter.

(2) Top head may have not more than two holes of suitable size to provide for protruding closures.

(3) Overpack shall be constructed to provide snug fit for inside plastic container.

**§ 78.134–3 Tests.**

(a) Steel overpack when assembled as for use, shall withstand the tests prescribed in specifications for inside plastic containers as detailed in Part 78 when authorized as combination packages in Part 73 of this chapter. The completed package must withstand these tests without producing a condition of the overpack that could result in potential damage to the inside container.

**§ 78.134–4 Marking.**

(a) Marking on each container by embossing on bottom head with raised marks with letter and figures not less than ½ inch high as follows:

(1) ICC–37M. The letters NRC located near the ICC mark to indicate "Non-reusable container." These marks shall be understood to certify the steel container complies with all construction requirements of this specification.

(2) Name or symbol (letters) of maker; this must be recorded with the Bureau of Explosives.

(3) Gauge of metal in thinnest part, rated capacity of the inside container in gallons, and year of manufacture (for example, 24–55–62). When gauge of metal in body differs from that in either head, both must be indicated with slanting line between and with gauge of body indicated first (for example, 24/22–55–62 for a container having 24-gauge body and 22-gauge top head).

In § 78.150–4 amend paragraph (a) (28 F.R. 4504, May 4, 1963) to read as follows:

**§ 78.150 Specification 33A; polystyrene cases.**

**§ 78.150–4 Closing for shipment.**

(a) The cases shall be closed for shipment with a pressure sensitive paper tape having not less than 1½ inches width and a tensile strength at least 55 pounds per inch of width, or tape of equivalent strength. The tape shall completely encircle the case, with overlap not less than one inch in length, in one direction so as to transverse the top-bottom section joint in vertical manner. If the design of the case is such that the tape is subject to abrasion in transportation and handling, tape shall also be applied similarly on the same axis but at 90°.

## Subpart F—Specifications for Fiberboard Boxes, Drums, and Mailing Tubes

In § 78.205–16 paragraph (a) Table, amend the first column heading now reading "Authorized [4] gross weight (pounds)" to read "Authorized gross weight (pounds)"; add footnote 4 after the last number in the first column to read "65 [4]" (24 F.R. 3600, May 5, 1959).

* * * * *

In § 78.209–3 amend paragraph (a) Table; in § 78.209–15 amend the introductory text of paragraph (b); in § 78.209–16 amend paragraph (a)(3) (20 F.R. 8109, 8110, Oct. 28, 1955) to read as follows:

**§ 78.209 Specification 12H; fiberboard boxes.**

**§ 78.209–3 Classification of board.**

(a) * * *

| Classified strength [1] of completed board | Facings for corrugated fiberboard | |
|---|---|---|
| | Double-faced-minimum combined weight of facings (pounds per 1,000 sq. ft.) | Double-wall-minimum combined weight of facings including center liner (pounds per 1,000 sq. ft.) |
| 275 | 138 | 110 |
| 325 | 138 | 110 |
| 350 | 180 | 126 |
| 375 | 180 | 180 |
| 400 | 180 | 180 |
| 450 | 180 | 180 |

[1] Mullen or Cady test (minimum).

**§ 78.209–15 Material.**

* * * * *

(b) Box material must also have 275 pound test strength and moisture content not over 30 percent as follows:

* * * * *

**§ 78.209–16 Completed container.**

(a) * * *

(3) Three empty samples to be tested. Each must withstand top to bottom pressure of at least 500 pounds without deflection of over ½ inch.

* * * * *

In § 78.214–20 amend paragraph (a) (3) (15 F.R. 8480, Dec. 2, 1950) to read as follows:

§ 78.214 Specification 23F; fiberboard boxes.

§ 78.214–20 Completed containers.

(a) * * *

(3) Three empty samples to be tested. Each must withstand top to bottom pressure of at least 500 pounds without deflection of over ½ inch.

* * * * *

In § 78.219–16 amend paragraph (a) (3) (17 F.R. 1565, Feb. 20, 1952) to read as follows:

§ 78.219 Specification 23H; fiberboard boxes.

§ 78.219–16 Completed containers.

(a) * * *

(3) Three empty samples to be tested. Each must withstand top to bottom pressure of at least 500 pounds without deflection of over ½ inch.

* * * * *

## Subpart H—Specifications for Portable Tanks

In § 78.246 amend the Heading; in § 78.246–2 amend paragraph (a); in § 78.246–7 amend paragraph (a) (2) (25 F.R. 6628, July 14, 1960) to read as follows:

§ 78.246 Specification 52; aluminum or magnesium portable tanks.

§ 78.246–2 Composition and capacity.

(a) Tanks shall be constructed of aluminum base alloy at least 96 percent pure, or other aluminum base alloys of equivalent strength and physical properties, or ZE–10A magnesium alloy suitable for use with the commodity to be transported therein and having a capacity not over 500 gallons.

§ 78.246–7 Marking.

(a) * * *

(2) Name or symbol (letters) of maker or user assuming responsibility for compliance with specification requirements. Symbol letters must be registered with the Bureau of Explosives.

## Subpart I—Specifications for Tank Cars

In § 78.277–3 amend the introductory text of paragraph (b); in § 78.277–4 amend paragraph (a), add paragraph (c) (21 F.R. 4583, June 26, 1956) to read as follows:

§ 78.277 Specification ICC–107A****; seamless steel tanks to be mounted on or forming part of a car.

§ 78.277–3 Material.

* * * * *

(b) Steel (see NOTE 1) must conform to the following requirements as to chemical composition:

NOTE 1: Alternate steel containing other alloying elements may be used if approved.

| Designation | Class I (percent) | Class II (percent) | Class III (percent) |
|---|---|---|---|
| Carbon, maximum | 0.50 | 0.50 | 0.53 |
| Manganese, maximum | 1.65 | 1.65 | 1.85 |
| Phosphorus, maximum | .05 | .05 | .05 |
| Sulphur, maximum | .06 | .05 | .05 |
| Silicon, maximum | .35 | .30 | .37 |
| Molybdenum, maximum | ---------- | .25 | .30 |
| Chromium, maximum | ---------- | .30 | .30 |
| Sum of manganese and carbon not over. | 2.10 | 2.10 | ---------- |

(No change in (b) (1)).

* * * * *

§ 78.277–4 Heat treatment.

(a) Each necked-down tank must be uniformly heat treated. Heat treatment must consist of annealing or normalizing and tempering for Class I and Class II steel and oil quenching and tempering for Class III steel. Tempering temperatures shall not be less than 1000°F. Heat treatment of alternate steels must be approved. All scale must be removed from outside of tank to an extent sufficient to allow proper inspection.

* * * * *

(c) A magnetic particle inspection shall be performed after heat treatment on all tanks subjected to a quench and temper treatment to detect the presence of quenching cracks. Cracks shall be removed to sound metal by grinding and the surface exposed shall be blended smoothly into the surrounding area. A wall thickness check shall then be made of the affected area by ultrasonic equipment or other suitable means acceptable to the inspector and if the remaining wall thickness is less than the minimum recorded thickness as determined by § 78.277–2(b) it shall be used for making the calculation prescribed in § 78.277–4(b).

## Subpart J—Specifications for Containers for Motor Vehicle Transportation

In § 78.321–5 amend paragraph (b) (1) (26 F.R. 2505, Mar. 24, 1961) to read as follows:

§ 78.321 Specification MC 300; cargo tanks constructed of mild (open hearth or blue annealed) steel, or combination of mild steel with high-tensile steel, or stainless steel, primarily for the transportation of flammable liquids, or poisonous liquids, class B.

§ 78.321–5 Bulkheads, baffles, and ring stiffeners.

* * * * *

(b) * * *

(1) Every cargo tank having a total capacity in excess of 3,000 gallons shall be divided by bulkheads into compartments, none of which shall exceed 2,500 gallons.

* * * * *

In § 78.323–5 amend paragraph (b) (1) (26 F.R. 2507, Mar. 24, 1961) to read as follows:

§ 78.323 Specification MC 302; cargo tanks constructed of welded aluminum alloy (ASTM B209–57T), primarily for the transportation of flammable liquids, or poisonous liquids, class B.

§ 78.323–5 Bulkheads, baffles, and ring stiffeners.

* * * * *

(b) * * *

(1) Every cargo tank having a total capacity in excess of 3,000 gallons shall be divided by bulkheads into compartments, none of which shall exceed 2,500 gallons.

* * * * *

In § 78.324–5 amend paragraph (b) (1) (26 F.R. 2509, Mar. 24, 1961) to read as follows:

§ 78.324 Specification MC 303; cargo tanks constructed of welded ferrous alloy (high-tensile steel) or stainless steel, primarily for the transportation of flammable liquids, or poisonous liquids, class B.

§ 78.324–5 Bulkheads, baffles, and ring stiffeners.

* * * * *

(b) * * *

(1) Every cargo tank having a total capacity in excess of 3,000 gallons shall be divided by bulkheads into compartments, none of which shall exceed 2,500 gallons.

* * * * *

In § 78.325–5 amend paragraph (b) (26 F.R. 2512, Mar. 24, 1961) to read as follows:

§ 78.325 Specification MC 304; cargo tanks constructed of mild (open hearth or blue annealed) steel, welded ferrous alloy (high-tensile steel) or aluminum, primarily for the transportation of flammable liquids, or poisonous liquids, class B, having Reid (ASTM D–323) vapor pressures of 18 psia or more at 100°F., but less than those stated in § 73.300 of this chapter, in defining compressed gases.

§ 78.325–5 Bulkheads, baffles, and ring stiffeners.

* * * * *

(b) *When bulkheads required.* Except as provided in paragraph (a) of this section, every cargo tank having a total capacity in excess of 3,000 gallons shall be divided by bulkheads into compartments none of which shall exceed 2,500 gallons. Each bulkhead required by this paragraph shall be of the same minimum strength as is required elsewhere in this specification for tank heads.

* * * * *

In § 78.326–5 amend paragraph (b) (26 F.R. 2515, Mar. 24, 1961) to read as follows:

**§ 78.326 Specification MC 305; cargo tanks constructed of aluminum alloys for high-strength welded construction, primarily for the transportation of flammable liquids, or poisonous liquids, class B.**

**§ 78.326–5 Bulkheads, baffles, and ring stiffeners.**

* * * * *

(b) *When bulkheads required.* Except as provided in paragraph (a) of this section, every cargo tank having a total capacity in excess of 3,000 gallons shall be divided by bulkheads into compartments, none of which shall exceed 2,500 gallons. Each bulkhead required by this paragraph shall be of the same minimum strength as is required elsewhere in this specification for tank heads.

* * * * *

*Section, Paragraph, Reason for Amendment*

72.5; (a) Commodity List; Provides additions and changes to keep Commodity List on a current basis.

73.22; (k); To authorize the continued use of specs. 5B, 6J and 37A metal drums, having inside polyethylene containers, that have been superseded by specs. 6D and 37M for certain commodities.

73.28; (k); To prohibit the reuse of containers used for shipments of etching acid liquid, n.o.s.

73.86; (d)(1); To authorize other suitable inside containers of conductive rubber or compatible plastic for samples of explosives.

73.93; (e)(2); New spec. 6D steel overpack replaces spec. 6J steel drum having inside polyethylene container for propellant explosives (liquid), class B.

73.93; (e)(3); To prevent overfilling containers by prescribing outage requirements for containers of propellant explosives (liquid), class B.

73.100; (bb); To reclassify certain detonating fuzes, used both by the military and commercially, as class C explosives.

73.100; (cc); To describe flexible linear shaped charges and provide for shipments of these charges and mild detonating fuse, metal clad, class C explosives when explosive content exceeds 2½ grains per foot.

73.100; (dd); To redefine igniter fuse-metal clad as having base tubes of other than lead.

73.104; (a), (b), (c); To provide packaging requirements for flexible linear shaped charges, metal clad.

73.119; (a)(7) Note 1; To authorize spec. 2F metal cans of 5 gallon capacity packaged inside spec. 12B fiberboard boxes for gasoline.

73.119; (a)(17), (e)(3); To authorize spec. MC 330 cargo tanks for flammable liquids, n.o.s.; to indicate that use of existing MC 301 cargo tanks is authorized but new construction is not authorized.

73.119; (a)(24); Reason for § 73.93(e)(2) applies also to shipments of flammable liquids, n.o.s.

73.119; (b)(8); New specs. 6D and 37M steel overpacks replace specs. 6J and 37A steel drums having inside polyethylene container for flammable liquids with flash point above 20° F. to 80° F.

73.119; (m)(8); To authorize spec. 12P fiberboard boxes with inside spec. 2U polyethylene containers for flammable liquids which are also oxidizing materials or corrosive liquids.

73.125; (a)(5); Reason for § 73.93(e)(2) applies also to shipments of alcohol.

73.127; (a); To authorize nitrocellulose, fibrous, wet to be shipped with a lower percentage of alcohol or solvent.

73.145; (a)(7); To indicate that use of existing MC 301 cargo tanks is continued for dimethylhydrazine, unsymmetrical but new construction is not authorized.

73.187; (a)(4); To authorize spec. 12A or 12B fiberboard boxes with inside air-tight metal cans for sodium, peroxide.

73.188; (a)(6); To authorize the use of other suitable plastic inside containers for phosphoric anhydride.

73.221; (a)(7); New specs. 6D and 37M steel overpacks replace specs. 5B, 6J, and 37A steel drums having inside polyethylene container for certain liquid organic peroxides.

73.222; (a)(4); To authorize spec. 12P fiberboard boxes with inside spec. 2U polyethylene containers for acetyl peroxide and acetyl benzoyl peroxide, solution.

73.223; (a)(5); To authorize new spec. 37M steel overpack with inside spec. 2SL polyethylene container for peracetic acid.

73.238; Heading; To make the heading consistent with the application of the packaging requirements of the section.

73.245; (a)(16); Reason for § 73.221(a)(7) applies also to shipments of acids or other corrosive liquids, n.o.s.

73.245; (a)(25); To authorize spec. 12A fiberboard boxes with inside aluminum containers for acids or other corrosive liquids, n.o.s.

73.257; (a)(13); Reason for § 73.221 (a)(7) applies also to shipments of electrolyte (acid) or corrosive battery fluid.

73.262; (a)(10), (b)(2); Reason for § 73.93 (e)(2) applies also to shipments of hydrobromic acid.

73.263; (a)(17), (a)(20); Reason for § 73.221 (a)(7) applies also to shipments of hydrochloric acid.

73.264; (a)(17), (18); Reason for § 73.221 (a)(7) applies also to shipments of hydrofluoric acid.

73.265; (d)(3); Reason for § 73.119 (b)(8) applies also to shipments of hydrofluosilicic acid.

73.266; (b)(6); Reason for § 73.119 (b)(8) applies also to shipments of hydrogen peroxide.

73.266; (f)(2); Editorial correction of the two references to subsections in § 78.330.

73.272; (f)(3), (6); Reason for § 73.221 (a)(7) applies also to shipments of sulfuric acid.

73.274; (a)(2); To authorize spec. 17F metal barrels or drums for fluosulfonic acid.

73.277; (a)(4); Reason for § 73.93 (e)(2) applies also to shipments of hypochlorite solutions.

73.288; (c); To authorize spec. 16D wooden wirebound overwrap with inside spec. 2SL polyethylene container for ethyl chloroformate and methyl chloroformate.

73.292; (a)(2); Reason for § 73.145 (a)(7) applies also to MC 301 cargo tanks in hexamethylamine diamine solution service.

73.299; Entire section; To provide specific packaging requirements for etching acid, liquid, n.o.s.

73.308; (a); To prescribe a reduced filling density for hydrogen sulfide in cylinders, equipped with one safety relief device, having lengths over 30 inches but less than 55 inches, exclusive of neck.

73.346; (a)(12); To authorize MC 304 cargo tanks for poisonous liquids, n.o.s., class B; also reason for § 73.145 (a)(7) applies to MC 301 cargo tanks in this service.

73.346; (a)(20); New spec. 6D steel overpack replaces specs. 6J and 5B steel drums having inside polyethylene container for poisonous liquids, class B, n.o.s.

73.347; (a)(3); Reason for § 73.145 (a)(7) applies also to MC 301 cargo tanks in aniline oil service.

73.352; (a)(5); Reason for § 73.145 (a)(7) applies also to MC 301 cargo tanks in liquid sodium or potassium cyanide service.

73.353; (a)(5) Note 1; To authorize the transportation of certain class B poisonous liquids in spec. ICC–106A containers by highway.

73.354; (a)(5) Note 1; Reason for § 73.145 (a)(7) applies also to MC 301 cargo tanks in motor fuel antiknock compound service.

73.369; (a)(14); Reason for § 73.145 (a)(7) applies also to MC 301 cargo tanks in carbolic acid (phenol) service.

73.369; (b)(1); To authorize additional suitable plastic inside containers for carbolic acid (phenol) shipped in exempt quantities.

74.525; (c)(3); To make more specific the certification requirements applicable to the securement of vehicles or containers loaded on open-top cars.

74.525; (c)(4); To authorize the continued use of existing supplies of car certificates.

74.538; (a) Chart; To include lead mononitroresorcinate in the group of initiating explosives to which the loading requirements are applicable.

77.841; (c) Note 1; To coincide with the addition of Note 1 to § 73.353 (a)(5) authorizing the transportation of certain class B poisonous liquid in spec. ICC–106A containers.

77.848; (a) Chart, item c; Same as § 74.538 (a).

77.848; (a) Chart, item 14; To include shipments of poison gas, class A in portable tank car tanks.

78.24–3; (a); To increase the capacity of inside spec. 2U polyethylene containers to not over 55 gallons.

78.82–7(a), 78.82–15(a); To rescind the exceptions to standard ICC–5B steel drum specification that accommodated an inside polyethylene container which composite package is now replaced by new spec. 6D cylindrical steel overpack.

78.100–5(a), 78.100–7(b) and Note 2, 78.100–12(a); Reason for § 78.82 subsections applies also to ICC–6J steel drum specification.

78.102 Entire section. To provide for construction of new ICC–6D cylindrical steel overpack to be used only with inside polyethylene container.

78.131–6(a), 78.131–12; To rescind the exceptions to standard ICC–37A steel drum specification that accommodated an inside polyethylene container which composite package is now replaced by new spec. 37M cylindrical steel overpack.

78.134 Entire section. To provide for construction of new spec. 37M cylindrical steel overpack to be used only with inside polyethylene container.

78.150–4(a); To make more specific the overlap length of tape encircling spec. 33A polystyrene case.

78.205–16(a); To show that the exception to the authorized gross weight limitation applies only to spec. 12B fiberboard boxes constructed to an authorized gross weight of 65 pounds.

78.209–3(a), 78.209–15(b); To make consistent the fiberboard classification table, and test strength requirement with the minimum strength permitted for spec. 12H boxes in subsection 11 of this section.

78.209–16(a)(3); To clarify that not over ½ inch deflection is permitted in compression test of spec. 12H fiberboard boxes.

78.214–20(a)(3); Reason for § 78.209–16 applies also to spec. 23F fiberboard boxes.

78.219–16; (a)(3); Reason for § 78.209–16 applies also to spec. 23H fiberboard boxes.

78.246, Heading, 78.246–2, (a), 78.246–7, (a)(2); To provide for the construction of spec. 52 portable tanks made of magnesium, and to increase the maximum capacity of tank.

78.277–3; (b); To discontinue the carbon steel composition because of its non-use; to provide for additional steels (class III) for spec. 107A seamless tanks.
78.277–4; (a); To provide methods of stress relieving spec. 107A tanks made of class III steels.
78.277–4; (c); To require a magnetic particle inspection of spec. 107A tanks subjected to a quench and temper treatment.
78.321–5; (b)(1); To increase the capacity of compartments in MC 300 cargo tanks to not over 2,500 gallons each.
78.323–5; (b)(1); Reason for § 78.321–5 applies also to MC 302 cargo tanks.
78.324–5; (b)(1); Reason for § 78.321–5 applies also to MC 303 cargo tanks.
78.325–5; (b); Reason for § 78.321–5 applies also to MC 304 cargo tanks.
78.326–5; (b); Reason for § 78.321–5 applies also to MC 305 cargo tanks.

[F.R. Doc. 63–11181; Filed, Oct. 23, 1963; 8:45 a.m.]

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## [ 49 CFR Parts 72, 73, 74, 77 ]

[Docket No. 3666; Notice No. 61]

## EXPLOSIVES AND OTHER DANGEROUS ARTICLES

### Notice of Proposed Rule Making

OCTOBER 17, 1963.

The Commission is in receipt of applications for early amendment of the above-entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway. The proposed amendments are set forth below.

Applications for the proposed amendments have been the subject of exchanges and study by various interested parties in which substantial agreement has been reached. The proposed changes have been formulated to permit smokeless powder for small arms in limited quantity to be shipped and transported as a flammable solid under certain conditions.

Any party desiring to make representations in favor of or against the proposed amendments may do so through the submission of written data, views, or arguments. The original and five copies of such submission may be filed with the Commission on or before November 7, 1963. The proposed amendments are subject to change or changes that may be made as a result of such submissions.

Notice to the general public will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy of the notice with the Director, Office of the Federal Register.

(62 Stat. 738, 74 Stat. 808; 18 U.S.C. 834)

By the Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board.

[SEAL] HAROLD D. MCCOY, *Secretary.*

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

Amend § 72.5(a) Commodity list (15 F.R. 8272, Dec. 2, 1950) (23 F.R. 4028, June 10, 1958) as follows:

**§ 72.5 List of explosives and other dangerous articles.**

(a) * * *

| Article | Classed as— | Exemptions and packing (see sec.) | Label required if not exempt | Maximum quantity in 1 outside container by rail express |
|---|---|---|---|---|
| (*Change*) | | | | |
| *Smokeless powder for cannon or small arms (more than 100 pounds). See* Propellant explosives, class A, or Propellant explosives (solid), class B. | | | | |
| (*Add*) | | | | |
| Smokeless powder for small arms (100 pounds or less). | F. S. | No exemption, 73.197a | Yellow | 100 pounds. |

## PART 73—SHIPPERS

### Subpart B—Explosives; Definitions and Preparation

In § 73.88 amend paragraph (f) (25 F.R. 10391, Oct. 29, 1960) to read as follows:

**§ 73.88 Definition of class B explosives.**

* * * * *

(f) *Propellant explosives, class B.* Propellant explosives, class B, are solid or liquid chemicals or chemical mixtures which function by combustion. The combustion is controlled by composition, size, form of grain, or other chemical or mechanical means. Any propellant is class B which fails to detonate in five trials when tested (see Note 2) in the package in which it is offered for shipment. Propellant explosives, class B, include smokeless powder for small arms, smokeless powder for cannon, liquid monopropellant fuel (see Note 3), smokeless powder, or solid propellant explosives for rockets, jet thrust units, or other devices. Black powder is not included in this classification and is defined specifically in § 73.53. Limited quantities of smokeless powder for small arms may also be classed as flammable solid in accordance with § 73.197a.

(No change in notes.)

* * * * *

### Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

Add § 73.197a (15 F.R. 8309, Dec. 2, 1950) to read as follows:

**§ 73.197a Smokeless powder for small arms.**

(a) Smokeless powder for small arms in quantities not exceeding 100 pounds net weight in one car or motor vehicle may be classed as a flammable solid for purposes of transportation when approved for such classification by the Bureau of Explosives. Maximum quantity in any inside container must not exceed eight pounds and inside containers must be arranged and protected so as to prevent simultaneous ignition of the contents. The complete package must be a type approved by the Bureau of Explosives. Each outside shipping container shall be labeled as prescribed in § 73.402 (a)(2).

## PART 74—CARRIERS BY RAIL FREIGHT

### Subpart B—Loading and Storage Chart of Explosives and Other Dangerous Articles

In § 74.538(a) Loading and Storage Chart, add Note 5 (15 F.R. 8350, Dec. 2, 1950) to read as follows:

**§ 74.538 Loading and storage chart of explosives and other dangerous articles.**

(a) * * *

* * * * *

NOTE 5: Smokeless powder for small arms in quantities not exceeding 100 pounds net weight in one car or motor vehicle may be classed as a flammable solid for purposes of transportation when approved for such classification by the Bureau of Explosives.

## PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

### Subpart A—General Information and Regulations

In § 77.821 add paragraph (f) (15 F.R. 8363, Dec. 2, 1950) to read as follows:

**§ 77.821 Explosives or other dangerous articles forbidden or limited for transportation.**

* * * * *

(f) Smokeless powder for small arms in quantities not exceeding 100 pounds net weight in one car or motor vehicle may be classed as a flammable solid for purposes of transportation when approved for such classification by the Bureau of Explosives. Maximum quantity in any inside container must not exceed eight pounds and inside containers must be arranged and protected so as to prevent simultaneous ignition of the contents. The complete package must be a type approved by the Bureau of Explosives. Each outside shipping con-

tainer shall be labeled as prescribed in § 73.402(a)(2) of this chapter.

## Subpart B—Loading and Unloading

In § 77.838 add paragraph (g) (15 F.R. 8366, Dec. 2, 1950) to read as follows:

**§ 77.838 Flammable solids and oxidizing materials.**

* * * * *

(g) Smokeless powder for small arms in quantities not exceeding 100 pounds net weight in one car or motor vehicle may be classed as a flammable solid for purposes of transportation when approved for such classification by the Bureau of Explosives. Maximum quantity in any inside container must not exceed eight pounds and inside containers must be arranged and protected so as to prevent simultaneous ignition of the contents. The complete package must be a type approved by the Bureau of Explosives. Each outside shipping container shall be labeled as prescribed in § 73.402 (a)(2) of this chapter.

## Subpart C—Loading and Storage Chart of Explosives and Other Dangerous Articles

In § 77.848(a) Loading and Storage Chart, add Note 5 (15 F.R. 8369, Dec. 2, 1950) to read as follows:

**§ 77.848 Loading and storage chart of explosives and other dangerous articles.**

(a) * * *

* * * * *

NOTE 5: Smokeless powder for small arms in quantites not exceeding 100 pounds net weight in one car or motor vehicle may be classed as a flammable solid for purposes of transportation when approved for such classification by the Bureau of Explosives.

[F.R. Doc. 63-11182; Filed, Oct. 23, 1963; 8:45 a.m.]

# Notices

## DEPARTMENT OF STATE

### Agency for International Development

### UNITARIAN UNIVERSALIST SERVICE COMMITTEE, INC.

### Register of Voluntary Foreign Aid Agencies

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (A.I.D. Regulation 3) 22 CFR, Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that a certificate of registration as a voluntary foreign aid agency has been issued by the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development to the following agency:

Unitarian Universalist Service Committee, Inc.,
78 Beacon Street,
Boston, Mass., 02108.

Dated: October 11, 1963.

FRANK M. COFFIN,
*Administrator.*

[F.R. Doc. 63-11235; Filed, Oct. 23, 1963; 8:47 a.m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### ALASKA

### Small Tract Classification No. 51; Amdt. No. 1

OCTOBER 18, 1963.

1. Pursuant to the authority redelegated to me from Bureau Order 684, dated August 24, 1961 (26 F.R. 6215), as amended by the Alaska State Director in section 2, Delegation of Authority, dated January 9, 1963 (28 F.R. 294), and effective immediately, I hereby amend Small Tract Classification Order No. 51, dated January 29, 1952, which classified certain lands for lease and sale under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, as follows:

2. The following parcel is classified for lease, lease and sale or direct sale for community or residential purposes:

GIRDWOOD AREA

U.S. SURVEY 3042, LOT 75

Containing 1.275 acres.

GEORGE R. SCHMIDT,
*Chief, Branch of Lands and Minerals Operations.*

[F.R. Doc. 63-11242; Filed, Oct. 23, 1963; 8:47 a.m.]

[Riverside 03965]

### CALIFORNIA

### Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 18, 1963.

The Geological Survey, United States Department of the Interior, has filed an application, Serial Number Riverside 03965 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, subject to existing valid rights, excepting locations of mining claims as provided for in the Act of August 11, 1955 (69 Stat. 681), mineral leasing under the mineral leasing laws, and disposal of materials under the Act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U.S.C. 601-604), as amended.

The lands have previously been withdrawn for the Sequoia National Forest by Presidential Proclamation of November 5, 1891.

The land is proposed for withdrawals for power site classification purposes including future reservoir developments as proposed by the California Water Plan.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 8th Street, Box 723, Riverside, California, 92502.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

POWER SITE CLASSIFICATION NO. 451

UPPER KERN RIVER, CALIFORNIA

*Mount Diablo Meridian*

T. 19 S., R. 33 E.,
Sec. 9, W½;
Sec. 16, W½NE¼, W½, and SW¼SE¼;
Sec. 21, E½, N½NW¼, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 28, NE, E½NW¼, and N½SE¼.
T. 20 S., R. 33 E.,
Sec. 1, lots 3, and 4, S½NW¼, and SW¼;
Sec. 11, E½NE¼, SW¼NE¼, SE¼SW¼, and W½SE¼;
Sec. 12, NW¼NW¼;
Sec. 14, E½W½;
Sec. 23, NW¼, N½SW¼, and SW¼SW¼;
Sec. 26, NW¼NW¼;
Sec. 27, E½NE¼, S½NW¼NE¼, SW¼NE¼, S½NW¼, and N½SW¼;
Sec. 28, SE¼NE¼, and SE¼;
Sec. 29, W½SW¼;
Sec. 30, E½E½;
Sec. 31, E½;
Sec. 32, S½NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 33, NE¼NE¼; W½NE¼, S½NW¼, and N½NE¼SW¼.

The lands described in secs. 1, 11, 12, 14, 23, 26, 27, 28, and 33 are the smallest legal subdivisions, any portion of which lies below the 5300-foot contour along the Kern River in the reach between a point ½ mile downstream from Soda Creek and the north township line, when resurveyed. And every smallest legal subdivision, any portion of which lies below the 5000-foot contour along the Kern River in the reach between a point ½ mile downstream from Soda Creek and the east line of section 32, when resurveyed.

T. 21 S., R. 33 E.,
Sec. 3, lot 2 of NE¼;
Sec. 4, lots 3, and 4, and S½NW¼;
Sec. 5, lots 1, 2, 3, and 4, S½NE¼, and SW¼;
Sec. 6, lots 1, 2, 3, 10, and 11, S½NE¼, and SE¼;
Sec. 8, NW¼.

The areas described aggregate 5,764.07 acres.

JENS C. JENSEN,
*Land Office Manager.*

[F.R. Doc. 63-11243; Filed, Oct. 23, 1963; 8:47 a.m.]

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[Los Angeles 0158928]

### CALIFORNIA

### Notice of Partial Termination of Proposed Withdrawal and Reservation of Land

OCTOBER 18, 1963.

Notice of an application, filed by the Bureau of Sport Fisheries and Wildlife, United States Fish and Wildlife Service, Serial Number Los Angeles 0158928, for withdrawal and reservation of lands was published as F.R. Doc. 59-11125; Filed, December 29, 1959; 8:45 a.m., on pages 10987 and 10988, of the Wednesday issue, December 30, 1959.

The applicant agency has cancelled its application, Los Angeles 0158928, as to the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Part 295, such lands will be at 10:00 a.m., on November 5, 1963, relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

SAN BERNARDINO MERIDIAN

T. 7 N., R. 23 E.,
Sec. 1, lot 1, E½ lot 2, and N½SE¼NE¼.
T. 8 N., R. 23 E.,
Sec. 9, lot 1, W½SE¼NE¼, and NW¼NE¼SE¼;
Sec. 10, W½SW¼;
Sec. 15, NW¼;
Sec. 22, W½NE¼, NE¼NW¼, and E½SE¼;
Sec. 23, SW¼SW¼;

Sec. 25, SW¼SW¼;
Sec. 26, N½NW¼, SE¼NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 36, lot 3, SW¼NE¼, NE¼NW¼, and W½SE¼.
T. 7 N., R. 24 E.,
Sec. 6, lot 8, SE¼SW¼, and S½SE¼.

The areas described aggregate 1,302.20 acres.

JENS C. JENSEN,
*Land Office Manager, Riverside.*

[F.R. Doc. 63–11244; Filed, Oct. 23, 1963; 8:47 a.m.]

[Washington 04938]

## WASHINGTON

### Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, United States Department of Agriculture, has filed an application, Serial Number Washington 04938, for the withdrawal of the lands described below, from all forms of location, prospecting, or entry under the general mining laws. The applicant desires the land for public outdoor recreation.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 680 Bon Marche Building, Spokane, Washington.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Forest Service.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

WILLAMETTE MERIDIAN

UMATILLA NATIONAL FOREST

*Table Rock Lookout Tower Site*

T. 6 N., R. 39 E.,
Sec. 3, SW¼NE¼NE¼, NW¼SE¼NE¼.

*Griffin Peak Lookout Site*

T. 7 N., R. 39 E.,
Sec. 10, SW¼SE¼SE¼.

*Godman Guard Station*

T. 7 N., R. 40 E.,
Sec. 10, SE¼SW¼NE¼, SW¼SE¼NE¼.

*Oregon Butte Lookout*

T. 7 N., R. 41 E.,
Sec. 4, NW¼SE¼SW¼.

*Clearwater Lookout*

T. 8 N., R. 42 E.,
Sec. 5, NE¼SE¼NW¼.

*Saddle Springs Guard Station*

T. 7 N., R. 43 E.,
Sec. 18, SW¼SE¼NE¼.

*Saddle Butte Lookout*

T. 7 N., R. 43 E.,
Sec. 19, NE¼SE¼NE¼.
Sec. 20, NW¼SW¼NW¼.

*Pataha Creek Campground*

T. 9 N., R. 42 E.,
Sec. 2, E½, E½W½, lot 3, NE¼SE¼NW¼.

The areas described aggregate approximately 148.24 acres.

JOHN E. BURT, Jr.,
*Officer in Charge.*

[F.R. Doc. 63–11245; Filed, Oct. 23, 1963; 8:47 a.m.]

## ALASKA

### Small Tract Classification No. 44, as Amended; Cancellation

OCTOBER 15, 1963.

1. Pursuant to the authority redelegated to me from Bureau Order 684, dated August 28, 1961 (26 F.R. 6215), as amended by the Alaska State Director in Section 3, Delegation of Authority (F.R. Doc. 63–219) dated January 9, 1963, Small Tract Classification No. 44 of October 10, 1951 (F.R. Doc. 51–12424, issue of October 17, 1951, page 10609), as amended by the General Amendment of February 19, 1957, which classified the following lands for lease and sale under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C., 682a), as amended, is hereby cancelled in its entirety:

FAIRBANKS MERIDIAN

T. 1 S., R. 2 E.,
Sec. 5, Lot 4.

2. Lot 4 was subdivided into the following described lands by supplemental plat dated December 21, 1954, which the subject order thereafter embraced:

FAIRBANKS MERIDIAN

T. 1 S., R. 2 E.,
Sec. 5, Lots 6 through 13 inclusive.

Containing 24.43 acres, more or less.

3. This Order will take effect immediately upon publication in the FEDERAL REGISTER. Cancellation of this Order does not affect valid existing rights as to the lands embraced thereby.

GERALD G. WRIGHT,
*Chief, Branch of Lands and Minerals Operations.*

[F.R. Doc. 63–11219; Filed, Oct. 23, 1963; 8:46 a.m.]

## ALASKA

### Small Tract Classification No. 50, as Amended; Cancellation

OCTOBER 15, 1963.

1. Pursuant to the authority redelegated to me from Bureau Order 684, dated August 28, 1961 (26 F.R. 6215), as amended by the Alaska State Director in Section 3, Delegation of Authority (F.R. Doc. 63–219) dated January 9, 1963, Small Tract Classification No. 50 of January 18, 1952, as amended by Amendment No. 1 of March 29, 1955, by the General Amendment of February 19, 1957, and by Amendment No. 2 of June 20, 1962, which classified the following lands for lease and sale for residence sites under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C., 682a), as amended, is hereby cancelled in its entirety, both as to lands and as to amendments:

FAIRBANKS MERIDIAN

T. 1 S., R. 2 E.,
Sec. 9, Lots 12–29, inclusive, Lots 33, 34, 39–43, inclusive.

Containing 25 tracts aggregating 106.29 acres, more or less.

2. This order will take effect as soon as published in the FEDERAL REGISTER. Cancellation of this order does not affect valid existing rights as to the lands embraced thereby.

GERALD G. WRIGHT,
*Chief, Branch of Lands and Minerals Operations.*

[F.R. Doc. 63–11220; Filed, Oct. 23, 1963; 8:46 a.m.]

[Group 376]

## ARIZONA

### Notice of Filing of Plats of Surveys and Order Providing for Opening of Public Lands

OCTOBER 16, 1963.

1. Plats of survey of the lands described below will be officially filed in the Land Office, Phoenix, Arizona, effective at 10 a.m. on November 21, 1963:

GILA AND SALT RIVER MERIDIAN

T. 37 N., R. 4 W.,
Sec. 17, All;
Sec. 18, Lots 1, 2, 3, 4, E½W½, E½;
Sec. 23, All;
Sec. 24, All;
T. 37 N., R. 5 W.,
Sec. 1, Lots 1, 2, 3, 4, 5, 6, and 7, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 2, Lots 1, 2, 3, and 4, S½N½, S½;
Sec. 11, All;
Sec. 12, Lots 1, 2, 3, and 4, W½E½, W½;
Sec. 13, Lots 1, 2, 3, and 4, W½E½, W½;
Sec. 24, Lots 1, 2, 3, and 4, W½E½, W½;
Sec. 25, Lots 1, 2, 3, and 4, W½E½, W½;
Sec. 36, Lots 1, 2, 3, and 4, W½E½, W½.

The areas described aggregate 7,581.34 acres of public lands.

2. Available data indicates the land included in T. 37 N., R. 4 W., with the exception of Sec. 24, is located on rolling Sunshine Point. The central and eastern portion of Sec. 24 is cut by Grama Canyon and is extremely rough and broken. The soil is sandy and rocky, with exposed sandstone outcroppings.

In T. 37 N., R. 5 W., the land varies from steep and broken in Sections 24, 25, and 36, to gentle rolling in the remainder. The soil is of a rocky, sand loam with sandy clay and broken ledges along Hack Canyon.

3. All rights of the State of Arizona on the following lands have been conveyed to the United States:

GILA AND SALT RIVER MERIDIAN

T. 37 N., R. 5 W.,
Sec. 2, All;
Sec. 36, All.

The areas described aggregate 1,263.16 acres.

4. The lands described in paragraph 1 are opened to petition, application and selection, as outlined in paragraph 5 below. No application for these lands will be allowed under the nonmineral public land laws, unless the lands have already been classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

5. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 1 hereof, are hereby opened to filing of petition, application and selection in accordance with the following:

a. Applications and selections under the nonmineral public land laws, and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such application, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs.

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the non-mineral public land laws presented prior to 10 a.m. on November 21, 1963, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

6. Persons claiming preference rights based upon settlement, statutory preference, or equitable claims must enclose properly executed statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

ROY T. HELMANDOLLAR,
*Manager.*

[F.R. Doc. 63-11221; Filed, Oct. 23, 1963; 8:46 a.m.]

[Classification No. 606]

## CALIFORNIA

### Small Tract Classification; Partial Revocation

OCTOBER 15, 1963.

1. Effective immediately the following described lands listed under paragraph 1 of Federal Register Document 60-11588, appearing on page 12847 of the issue of December 14, 1960, are hereby revoked from classification order.

MOUNT DIABLO MERIDIAN

T. 45 N., R. 7 W.,
Section 11, Lot 10, formerly described as a portion of Lot 9.

Containing approximately 34.52 acres.

2. The above described land is the subject of an approved Indian Allotment Application which operates as a segregation of the land from subsequent application.

VIRGIL L. BOTTINI,
*District Manager.*

[F.R. Doc. 63-11222; Filed, Oct. 23, 1963; 8:46 a.m.]

[Classification No. 616]

## CALIFORNIA

### Small Tract Classification: Revocation and Order Providing for Opening of Public Lands

OCTOBER 15, 1963.

1. Pursuant to the authority delegated to me by the California State Director, Bureau of Land Management, under Part 1, Redelegation of Authority, dated March 27, 1962 (27 F.R. 3297), I hereby revoke, in its entirety, unpublished Classification Order No. 616, dated February 27, 1961. This order of revocation affects the following described lands:

MOUNT DIABLO MERIDIAN

T. 31 N., R. 5 W.,
Sec. 14: Lots 4, 5 and W½W½SW¼SW¼ (formerly described as Lot 6).

Containing approximately 17.31 acres.

2. Classification Order No. 616, an accommodation classification not published in the FEDERAL REGISTER, was provided for the benefit of the small tract applicants whose applications were of record as of the date of classification.

3. Subject lands are located approximately four miles southwest of Redding. Subsequent field investigations disclose the fact that no legal means of access can be guaranteed the applicants and the rough topography of the lands serves to preclude either leasing or sale of such tracts under the purview of the Small Tract Act.

4. The public lands affected by this order are hereby restored as of 10:00 a.m. on November 20, 1963 to the operation of the public land laws, including locations under the mining laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules and regulations.

VIRGIL L. BOTTINI,
*District Manager.*

[F.R. Doc. 63-11223; Filed, Oct. 23, 1963; 8:46 a.m.]

[Small Tract Offer No. W6-1]

## WYOMING

### Small Tract Opening

OCTOBER 18, 1963.

1. Effective immediately, Classification Order No. 4, Wyoming No. 1, Amended, dated January 29, 1954, and published as F.R. Doc. 54-769, appearing on pages 659 and 660 of the February 4, 1954 issue, is hereby amended to offer the small tracts described below for direct sale under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended.

SIXTH PRINCIPAL MERIDIAN

| T. 32 N., R. 79 W. | Acreage | Value | Tract reference No. |
|---|---|---|---|
| Section 15: | | | |
| S½NW¼SW¼NW¼ | 5 | 1600 | 1 |
| N½SW¼SW¼NW¼ | 5 | 1600 | 2 |
| S½SE¼SW¼NW¼ | 5 | 700 | 3 |
| Section 21: | | | |
| NW¼NE¼NE¼SE¼ | 2½ | 1200 | 4 |
| NE¼NE¼NE¼SE¼ | 2½ | 1200 | 5 |
| SW¼SW¼NE¼SE¼ | 2½ | 1200 | 6 |
| SE¼SW¼NE¼SE¼ | 2½ | 1200 | 7 |
| Section 22: | | | |
| NW¼NE¼NW¼SW¼ | 2½ | 1200 | 8 |
| NE¼NE¼NW¼SW¼ | 2½ | 1200 | 9 |
| SW¼NE¼NW¼SW¼ | 2½ | 1200 | 10 |
| SE¼NE¼NW¼SW¼ | 2½ | 1200 | 11 |
| NW¼SW¼NE¼SW¼ | 2½ | 1200 | 12 |
| NE¼SW¼NE¼SW¼ | 2½ | 1200 | 13 |
| NW¼SE¼NE¼SW¼ | 2½ | 1200 | 14 |
| NE¼SE¼NE¼SW¼ | 2½ | 1200 | 15 |
| W½SW¼SW¼SW¼ | 5 | 700 | 16 |
| NE¼SW¼SW¼SW¼, NW¼SE¼SW¼SW¼ | 5 | 850 | 17 |
| N½SE¼SE¼SW¼ | 5 | 850 | 18 |
| SW¼SW¼SE¼SW¼ | 2½ | 600 | 19 |
| SE¼SW¼SE¼SW¼ | 2½ | 1200 | 20 |
| Section 27: | | | |
| NE¼NE¼NW¼NW¼ | 2½ | 600 | 21 |
| SE¼NE¼NW¼NW¼ | 2½ | 600 | 22 |
| W½NW¼NE¼NW¼ | 5 | 700 | 23 |
| NE¼NW¼NE¼NW¼ | 2½ | 600 | 24 |
| SE¼NW¼NE¼NW¼ | 2½ | 600 | 25 |
| E½SW¼NW¼NW¼ | 5 | 850 | 26 |
| W½SE¼NW¼NW¼ | 5 | 850 | 27 |
| W½SE¼NE¼NW¼ | 5 | 850 | 28 |
| Section 28: | | | |
| NW¼SE¼NE¼NE¼ | 2½ | 1200 | 29 |
| NE¼SE¼NE¼NE¼ | 2½ | 1200 | 30 |

2. For the purpose of clarity each tract described by legal subdivision has been assigned a reference number shown opposite the legal subdivision and value as set forth in paragraph 1 above.

3. The following described tracts will be sold subject to a 33-foot right-of-way for road purposes along the south boundary of tract: Section 21, tract 5; section 22, tracts 8, 10, 19 and 20; section 27, tract 23.

4. The following described tracts will be sold subject to a 33-foot right-of-way for road purposes along the north boundary of tract: Section 21, tracts 6 and 7; section 22, tract 16; section 27, tract 26.

5. The following described tracts will be sold subject to a 33-foot right-of-way for road purposes along the west boundary of tract: Section 27, tract 23.

6. The following described tracts will be sold subject to a 16½-foot right-of-way for road purposes along the south boundary of tract: Section 28, tracts 29 and 30.

7. These lands are approximately 12 miles south of the city of Casper, Wyoming. The tracts included in this offer are located in the Casper Mountain area. The area is gently rolling to steep slopes predominantly covered with a mixed stand of lodgepole pine trees. Elevation

is approximately 8,000 feet. The area receives a considerable amount of precipitation as summer rains or as snow in the winter months. There is no domestic water on any of the tracts. Access to the area is precluded by snow during the winter months.

8. Sale of these tracts will be integrated into the weekly small tract auction schedule by the District Manager, Casper, Wyoming. Unsold tracts will be offered by following weekly auctions.

9. The sale of these tracts will be by tract number, and the minimum appraisal of each tract is indicated above. The tracts will be subject to all existing rights-of-way of record, and rights-of-way for roads, streets and public utilities in accordance with 43 CFR 257.17(b), will be reserved as described above.

10. Persons who have previously acquired a tract under the Small Tract Act are not qualified to secure a tract opened under this order unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

11. All inquiries concerning these lands should be addressed to the State Director, Bureau of Land Management, Box 929, Cheyenne, Wyoming, with envelopes designated "Casper Mountain Small Tract Offer W6–1."

JOHN R. KILLOUGH,
*Acting State Director.*

[F.R. Doc. 63–11226; Filed, Oct. 23, 1963; 8:46 a.m.]

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[Wyoming 0280388]

## WYOMING

### Order Providing for Opening of Public Land

OCTOBER 18, 1963.

1. Under the provisions of section 16(b) of the Federal Airport Act, May 13, 1946 (60 Stat. 179), the following described lands were reconveyed to the United States:

SIXTH PRINCIPAL MERIDIAN

T.21 N., R. 87 W.,
Sec. 10, All of the N½NE¼, excepting a triangular tract located in the SW corner of N½NE¼. Said triangular tract being within the existing airport fence and said triangular tract more specifically described as follows: Beginning at a point in the West line of the NE¼ of said Section 10 from which point the North quarter corner bears N. 0°5′ W., a distance of 1017.0′. Thence S. 0°5′ E. along the West line of said NE¼ a distance of 304.4 feet to the Southwest corner of the NW¼NE¼ of said Section 10. Thence S. 89°44′ E. along the South line of said NW¼NE¼ a distance of 822.5 feet. Thence N. 69°28′ W., a distance of 915.9′ to the point of beginning. The above tract being all that portion of the N½NE¼ outside the existing airport fence.

Said tract contains 77.13 acres.

2. The lands are located about 2 miles northeast of the city limits of Rawlins, Wyoming, directly north of the municipal airport lands. The topography is undulating and the lands are chiefly valuable for livestock grazing. There is no water on the tract and no improvements except the boundary fence on the south edge separating the tract from the municipal airport of the City of Rawlins.

3. The lands have been found suitable for selection by the State of Wyoming in satisfaction for losses sustained in the School Lands Selection Program.

4. Pursuant to the authority delegated to me by section 1.5(b), Part 1, Bureau Order No. 684, dated August 28, 1961 (26 F.R. 8216) of the Associate Director, Bureau of Land Management, the lands described in Paragraph 1 hereof will be open upon the publication of this notice to the filing of applications, selections, and locations under the public land laws of the United States, subject to all valid existing rights, equitable claims, the provisions of existing withdrawals and the requirements of applicable laws, rules and regulations.

5. Until 10 a.m., May 27, 1964, the State of Wyoming shall have a preference right of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852) and the regulations in 43 CFR.

6. All valid applications and selections under the nonmineral public land laws other than from the State of Wyoming presented prior to 10 a.m., May 27, 1964, will be considered as simultaneously filed at that hour. Rights under applications and selections filed after that hour will be governed by the time of filing.

7. The lands have been open under the general mining laws and the mineral leasing laws, which status is not changed by this order.

8. Inquiries concerning the lands should be addressed to the Assistant State Director, Bureau of Land Management, P.O. Box 929, Cheyenne, Wyoming.

JOHN R. KILLOUGH,
*Acting State Director.*

[F.R. Doc. 63–11227; Filed, Oct. 23, 1963; 8:46 a.m.]

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## Office of the Secretary

## JOSEPH F. SINNOTT

### Statement of Changes in Financial Interests; Correction

My "Statement of Changes in Financial Interests" of June 23, 1961 (26 F.R. 6457) should have listed in item (1) San Diego Gas & Electric Company as a corporation in which I am an officer or director. The failure to make this change was due to an oversight and inadvertence.

Dated: August 20, 1963.

This statement is made as of June 23, 1961.

JOSEPH F. SINNOTT.

[F.R. Doc. 63–11228; Filed, Oct. 23, 1963; 8:47 a.m.]

# DEPARTMENT OF THE TREASURY

## Bureau of Customs

[AA 643.3–p]

## PLASTIC BABY CARRIERS (INFANSEAT) FROM JAPAN

### Notice That There Is Reason To Believe or Suspect Purchase Price Is Less or Likely To Be Less Than Foreign Market Value

OCTOBER 21, 1963.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of plastic baby carriers (Infanseat) imported from Japan, manufactured by Marui Corporation, Tokyo, Japan, is less, or likely to be less, than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of plastic baby carriers (Infanseat) from Japan, manufactured by Marui Corporation, Tokyo, Japan, pursuant to § 14.9 of the Customs Regulations (19 CFR 14.9).

The complaint in this case was received on July 18, 1963, and was made by the Infanseat Company, Eldora, Iowa.

[SEAL] PHILIP NICHOLS, JR.,
*Commissioner of Customs.*

[F.R. Doc. 63–11248; Filed, Oct. 23, 1963; 8:47 a.m.]

# DEPARTMENT OF COMMERCE

## Office of the Secretary

[Department Order No. 181 [Rev.]]

## ASSISTANT SECRETARY OF COMMERCE FOR DOMESTIC AND INTERNATIONAL BUSINESS

### Delegation of Authority

The following order was issued by the Secretary of Commerce on October 14, 1963. This material supersedes the material appearing at 28 F.R. 1073 of February 2, 1963.

Section 1. *Purpose.* The purpose of this order is to prescribe the scope of authority and the duties and responsibilities of, and delegate authority to, the Assistant Secretary of Commerce for Domestic and International Business.

SEC. 2. *Administrative Designations.* The position of Assistant Secretary of Commerce established by Public Law 80–191 (61 Stat. 326; 5 U.S.C. 592a) is designated as the Assistant Secretary of Commerce for Domestic and International Business.

SEC. 3. *Scope and delegation of authority.* .01 The Assistant Secretary of Commerce for Domestic and International Business shall formulate policy for and exercise supervision over the Business and Defense Services Administration, the Bureau of International Com-

merce, the Office of Field Services, the Office of Foreign Commercial Services and the Office of Trade Adjustment. He shall also coordinate the overseas operations of the Department.

.02 Pursuant to the authority vested in the Secretary of Commerce by the Trade Expansion Act of 1962 (Public Law 87–794 of October 11, 1962), Reorganization Plan No. 5 of 1950, Executive Order 11075 of January 15, 1963 and Executive Order 11106 of April 18, 1963, and subject to such policies and directives as the Secretary of Commerce may prescribe, the Assistant Secretary of Commerce for Domestic and International Business is hereby delegated the authority to make certifications pursuant to sections 302 (b)(1) and 302(c) of the Act, and to issue rules and regulations under section 401.

SEC. 4. *Duties and responsibilities.* The Assistant Secretary of Commerce for Domestic and International Business shall serve as the principal adviser to the Secretary on all domestic and international aspects of the Department's responsibilities concerning industry, trade, investment, defense production and industrial preparedness of domestic industry, export control, and related economic matters. His particular duties and responsibilities shall include:

1. The policy direction, supervision coordination, and evaluation of existing programs of the Department in the fields of domestic and international business;

2. The expansion and revision of such programs where deemed desirable to meet the national needs;

3. The development and implementation of new programs to accomplish national objectives for improving and expanding the economic strength and security of the United States;

4. Representing the Department on policy-level committees;

5. The coordination of the Department's domestic and international business activities with other agencies of the Government; and

6. Supervision of the Department's overseas activities.

SEC. 5. *Deputy Assistant Secretary of Commerce for Domestic and International Business.* The Deputy Assistant Secretary of Commerce for Domestic and International Business shall assist the Assistant Secretary for Domestic and International Business in the formulation of policy and in supervision over the areas under his control, and shall perform the functions of the Assistant Secretary during the latter's absence.

SEC. 6. *Deputy Assistant Secretary for Trade Policy.* The Deputy Assistant Secretary for Trade Policy shall be the principal assistant and adviser to the Assistant Secretary in the formulation of U.S. trade policy and programs, and shall provide policy guidance and inter-bureau coordination under the Assistant Secretary of all programs in the area related to U.S. trade policy and the implementation of the Department's responsibility under the Trade Expansion Act of 1962 (except Trade Adjustments).

SEC. 7. *Deputy Assistant Secretary for Financial Policy.* The Deputy Assistant Secretary for Financial Policy shall be the principal assistant and adviser to the Assistant Secretary on the formulation, implementation, coordination, and evaluation of domestic and international financial policies and programs, and shall provide policy guidance and inter-bureau coordination under the Assistant Secretary of all programs in the area related to financial aspects of economic growth, export financing, foreign investment and the Department's relations with the Agency for International Development.

HERBERT W. KLOTZ,
*Assistant Secretary for Administration.*

[F.R. Doc. 63–11203; Filed, Oct. 23, 1963; 8:45 a.m.]

# ATOMIC ENERGY COMMISSION

[Docket No. 50–17]

## INDUSTRIAL REACTOR LABORATORIES, INC., AND TRUSTEES OF COLUMBIA UNIVERSITY

### Proposed Issuance of Construction Permit and Facility License Amendment

Industrial Reactor Laboratories, Inc., and the Trustees of Columbia University in the City of New York ("the licensee") are authorized under License No. R–46, as amended, to possess and operate at steady state power levels up to 5 megawatts (thermal) the IRL pool-type nuclear reactor located in Plainsboro Township, Middlesex County, New Jersey. By application dated July 10, 1963, and supplement thereto dated September 16, 1963 ("the application"), the licensee requested a facility license amendment to authorize construction and operation of a critical experiment described as the Advanced Pressure Tube Reactor (APTR) Critical Experiment in the IRL reactor.

Please take notice that the Atomic Energy Commission proposes to issue to Industrial Reactor Laboratories, Inc., and the Trustees of Columbia University in the City of New York a construction permit substantially as set forth in Appendix A which would authorize the licensee to make certain modifications in the IRL reactor necessary for the conduct of the Advanced Pressure Tube Reactor Critical Experiment.

Notice is also hereby given that upon completion of construction and inspection of the activities authorized by the construction permit the Commission may, without further prior public notice, issue an amendment to Facility License No. R–46, substantially as set forth in Appendix B, which would authorize the conduct of the APTR Critical Experiment in the modified reactor.

The Commission has found that the application, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by the proposed issuance of this construction permit and facility license amendment may file a petition for leave to intervene. Requests for a hearing and petition for leave to intervene shall be filed in accordance with the provisions of the Commission's "Rules of Practice," 10 CFR 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed issuance, see the application for license amendment and supplement thereto and the related hazards analysis prepared by the Research and Power Reactor Safety Branch of the Division of Licensing and Regulation, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the hazards analysis may be obtained at the Commission's Public Document Room, or upon request to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Bethesda, Md., this 22d day of October 1963.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
*Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.*

APPENDIX A

INDUSTRIAL REACTOR LABORATORIES, INC., AND THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK DOCKET NO. 50–17, PROPOSED CONSTRUCTION PERMIT

1. License No. R–46, as amended, issued to Industrial Reactor Laboratories, Inc., and the Trustees of Columbia University in the City of New York ("the licensee"), authorizes Industrial Reactor Laboratories, Inc., to possess and the Trustees of Columbia University in the City of New York to operate the IRL nuclear reactor located in Plainsboro Township, New Jersey. By application dated July 10, 1963, and supplement thereto dated September 16, 1963 ("the application"), the licensee requested an amendment to Facility License No. R–46 to authorize construction and operation of a critical experiment described as the Advanced Pressure Tube Reactor (APTR) Critical Experiment in the IRL reactor.

2. The Atomic Energy Commission ("the Commission") hereby finds that:

A. Industrial Reactor Laboratories, Inc., and the Trustees of Columbia University in the City of New York are financially and technically qualified to modify the reactor as described in the application and in accordance with the Commission's regulations;

B. Industrial Reactor Laboratories, Inc., and the Trustees of Columbia University in the City of New York have submitted sufficient information to provide reasonable assurance that the reactor can be modified as proposed without undue risk to the health and safety of the public; and

C. The issuance of this construction permit will not be inimical to the common defense and security or to the health and safety of the public.

3. Pursuant to the Atomic Energy Act of 1954, as amended ("the Act"), and Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities," the Commission hereby issues a construction permit to Industrial Reactor Laboratories, Inc., and the Trustees of Columbia University in the City of New York to modify the reactor as described in the application. This permit shall be deemed to contain and be subject to

the conditions specified in Sections 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations, and orders of the Commission now or hereafter in effect and is subject to the additional conditions specified below:

A. The earliest completion date for the modifications to the reactor is November 8, 1963. The latest completion date for the modifications to the reactor is November 30, 1963.

B. The modifications to the reactor shall be accomplished in accordance with the application.

4. Upon completion of the modifications to the reactor in accordance with the terms and conditions of this permit and upon finding that the reactor will operate in conformity with the application for license, as amended, and in conformity with the provisions of the Act and the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license amendment would not be in accordance with the provisions of the Act, the Commission will, pursuant to the Act, issue to Industrial Reactor Laboratories, Inc., and the Trustees of Columbia University in the City of New York an amendment to Facility License No. R–46, as amended, authorizing operation of the reactor as modified for the conduct of the APTR Critical Experiment.

Date of issuance:

For the Atomic Energy Commission.

ROBERT H. BRYAN,
*Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.*

APPENDIX B

INDUSTRIAL REACTOR LABORATORIES, INC., AND THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK DOCKET NO. 50–17, PROPOSED FACILITY LICENSE AMENDMENT

Facility License No. R–46, as amended, issued to Industrial Reactor Laboratories, Inc., and the Trustees of Columbia University in the City of New York ("the licensee"), is hereby further amended as follows:

1. In addition to the activities previously authorized under Facility License No. R–46, as amended, the licensee is hereby authorized to operate the modified IRL reactor for the conduct of the Advanced Pressure Tube Reactor (APTR) Critical Experiment in the manner described in the application dated July 10, 1963, and supplement thereto dated September 16, 1963, and in accordance with the procedures and subject to the limitations set forth in License No. R–46, as amended, and subject to the following conditions:

a. The maximum excess reactivity which will be loaded into the APTR Critical Experiment core shall never exceed 0.15 based upon all control rods fully withdrawn and shim drums rotated in their full out positions.

b. The APTR Critical Experiment excess reactivity shall never exceed that excess reactivity which can be controlled and shut down by the four least effective of the five safety rods.

c. The maximum excess reactivity which will be available to the console operator by movement of the five safety rods in gang will never exceed 0.09. This maximum reactivity limitation means that the core shall never be made critical with the five safety rods inserted below 50 percent.

d. With the exception of the startup source and experiments worth less than .001, the maximum subcritical margin that will exist during manipulation of any core components or devices in and about the core will be 0.05. During manipulation of fuel elements or experiments having a net positive reactivity effect greater than 0.007 all safety rods shall be fully inserted.

e. Insertion of the startup source shall be accomplished only when the core $K_{eff}$ is less than 0.98 and removal of the source upon reaching criticality shall be done in a slow manner with close supervision.

f. Experimental equipment having a measured reactivity worth of less than 0.001 may be manipulated with the reactor critical. Such equipment shall consist of small samples used in danger coefficient experiments and the miniature fission chambers.

The miniature fission chambers shall be contained within guide tubes which are plugged into the top of a fuel element pressure tube. The guide tubes are supported at the top by a clamp and frame which is secured to the core support tower. Movement of the miniature fission chambers shall be made in small increments by loosening a set screw and by hand lowering or raising the miniature fission chambers to the desired location after which the set screw is tightened. Samples used for danger coefficient measurements will be manipulated with a wire by an operator standing above the core.

g. The restriction for the maximum worth of experiments in the APTR Critical Experiment core and the maximum individual worth of an experiment shall be the same as presently authorized by the IRL facility license.

h. Rotation of any shim rod shall be accomplished only with core $K_{eff}$ less than 0.97.

i. Removal and reinsertion of the entire loop mock-up will not be permitted unless the core fuel elements are removed and a new approach to critical performed.

j. The maximum power at which the APTR Critical Experiment core will be operated shall not exceed 100 watts.

k. The two high flux level scrams shall be set at a level not greater than 150 watts.

2. The licensee shall file with the Atomic Energy Commission no later than sixty days after completion of the experiment a report describing the measured values obtained.

This amendment is effective as of the date of issuance.

Date of issuance:

For the Atomic Energy Commission.

ROBERT H. BRYAN,
*Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.*

[F.R. Doc. 63–11289; Filed, Oct. 23, 1963; 8:48 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15196; FCC 63–959]

## BIG CHIEF BROADCASTING CO., INC. (KLPR)

### Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of Big Chief Broadcasting Company, Inc. (KLPR), Oklahoma City, Oklahoma, Docket No. 15196, File No. BP–13519, has: 1140 kc, 1 kw, Day, Class II, requests: 1140 kc, 500 w, 1 kw–LS, DA–N, U, Class II (including a slight change in the daytime operation); for construction permit.

1. The Commission has before it for consideration (a) the above-captioned application; (b) the letter objections dated June 10, 1960, June 29, 1961, April 9, 1962, and September 10, 1963 by Larus and Bro. Company, Inc., licensee of Station WRVA, Richmond, Virginia, directed against the above-captioned application; (c) the motions to strike the aforementioned letter objections filed on July 24, 1961, and April 24, 1962 by Big Chief Broadcasting Company, Inc., licensee of Station KLPR, Oklahoma City, Oklahoma and (d) the "Opposition to Motion to Strike" filed on May 2, 1962 by Larus and Bro. Company, Inc.

2. The application was originally filed on September 15, 1959 and amended on December 31, 1959. On June 10, 1960, WRVA filed a letter objection to a grant of this application requesting that the application be designated for hearing and WRVA be made a party respondent. Attached to the June, 1960 letter objection was an engineering study pointing out certain deficiencies in the technical proposal of Station KLPR. The alleged deficiencies are that the proposed operation would not protect the secondary skywave service of Station WRVA; that the proposal does not meet the FCC Rules concerning minimum ground system and effective field; and that the proposal does not meet the coverage requirements of the Commission's rules as to Oklahoma City. The proposal was again amended on February 9, 1961. On June 29, 1961, WRVA filed another letter objection to a grant of this proposal to which was attached a revised engineering study. WRVA again alleges that there is no assurance that the directional antenna system of KLPR can or will be adjusted and maintained to protect the normally protected WRVA skywave service. It also alleges anew that the proposed operation will not meet the coverage requirements of the Commission's rules, and a new question is raised as to whether the proposal will comply with the provisions of § 3.28(d)(3) of the rules (10 percent Rule) because of increased population shown by the 1960 Census. Against this letter the applicant filed a motion to strike. On April 9, 1962 WRVA filed its third letter objection which was particularly directed to KLPR's violation of the 10 percent Rule. According to WRVA the proposal of KLPR will receive interference that affects 51,076 persons (15.56 percent) within KLPR's normally protected primary service contour. On April 24, 1962, KLPR again filed a motion to strike this last letter objection. On May 2, 1962, WRVA filed an "Opposition to Motion to Strike". The application was again amended on March 14, 1963, and in a final objection filed on September 10, 1963, WRVA claims that the application is still deficient in several respects including the question of adequate protection to the WRVA secondary service area. This summarizes the pleadings before the Commission.

3. The motions to strike filed by KLPR were based on the theory that this application is governed by the former "protest" provisions of section 309 of the Communications Act of 1934, in force prior to September 13, 1960, rather than by the present provisions of section 309 of the Act. However, it is clear that action on this application is governed by the present provisions of section 309. Although this application was

filed prior to the enactment of the 1960 amendment, the Commission specifically provided that this type of application would be governed by section 309 as amended. Accordingly the motions to strike will be dismissed.

4. Upon examination of the application together with amendments thereto, the Commission finds that the applicant is legally, technically, financially and otherwise qualified to operate KLPR as proposed, but because of the problems indicated hereinafter, including a substantial question as to whether the proposed operation of KLPR would afford adequate protection to WRVA, the Commission is unable to find that a grant of the KLPR application without hearing would serve the public interest, convenience and necessity. Therefore, the application will be designated for hearing, Larus and Brother Company, Inc., will be named a party respondent, and the following matters will be considered in connection with the issues specified below:

1. Based on a nighttime limitation of 3.95 mv/m the applicant has indicated that this proposal will lose 12.6 percent of the population within the normally protected nighttime contour (2.5 mv/m). This limitation of 3.95 mv/m is entirely due to the operation of Station WRVA. The proposed operation may suffer a population loss greater than 12.6 percent of population due to interference from the operation of Station XEMR, Montorrey, Nueva Leon, Mexico. Therefore, a question obtains concerning compliance with § 3.28(d)(3) of the Commission's rules.

2. The proposed 25 mv/m nighttime contour fails to cover the business or factory areas of Oklahoma City, Oklahoma as required by § 3.188(b)(1) of the Commission's rules.

3. The proposal will not provide at least a 5 mv/m contour coverage during nighttime hours over the entire residential section of Oklahoma City, Oklahoma as required by § 3.188(b)(2) of the Commission's rules.

4. The presence of power lines and man-made structures in the vicinity of the proposed antenna site and the fact that only minor changes in the specified operating parameters would cause the MEOV's of radiation to be exceeded, raise a question as to whether the proposed directional array can be satisfactorily adjusted and maintained and whether, in fact, adequate nighttime protection would be afforded Station WRVA.

*Accordingly it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station KLPR and the availability of other primary service to such areas and populations.

2. To determine whether the interference received by this proposal from other existing stations would affect more than ten percent of the population within its normally protected primary service area in contravention of § 3.28(d)(3) of the Commission's rules and, if so, whether circumstances exist which would warrant a waiver of said section.

3. To determine whether the proposal of KLPR would provide coverage of the city sought to be served, as required by § 3.188(b)(1) of the Commission's rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

4. To determine whether the proposal of KLPR would provide coverage of the city sought to be served, as required by § 3.188(b)(2) of the Commission's rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

5. To determine whether the applicant will be able to adjust and maintain the directional antenna system as proposed in the instant aplication and adequately protect Station WRVA.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

*It is further ordered,* That Larus and Bro. Company, Inc., licensee of Station WRVA, Richmond, Virginia, is made a party respondent to the proceeding.

*It is further ordered,* That the motions to strike filed by Big Chief Broadcasting Company, Inc. are dismissed.

*It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

*It is further ordered,* That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(h) of the rules.

Adopted: October 16, 1963.

Released: October 21, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 63-11257; Filed, Oct. 23, 1963; 8:48 a.m.]

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[Docket Nos. 14693, 14694; FCC 63M-1149]

## JOHN A. EGLE AND KLFT RADIO, INC.

### Order Scheduling Hearing

In re applications of John A. Egle, Golden Meadow, Louisiana, Docket No. 14693, File No. BP-15478; KLFT Radio, Inc., Golden Meadow, Louisiana, Docket No. 14694, File No. BP-15536; for construction permits.

*It is ordered,* This 18th day of October 1963, that all parties, or their counsel, in the above-styled proceeding are directed to appear for a hearing conference, pursuant to the provisions of § 1.111 of the Commission's rules, at the offices of the Commission in Washington, D.C., at 2 p.m., October 24, 1963, for the purpose of expediting the hearing to be held pursuant to the Memorandum Opinion and Order issued by the Commission on October 17, 1963, remanding the above-styled proceeding for further hearing on issues therein specified.

Released: October 21, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 63-11258; Filed, Oct. 23, 1963; 8:48 a.m.]

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[Docket No. 15195]

## JOHN H. GUIFFRA

### Order To Show Cause

In the matter of John H. Guiffra, Millville, New Jersey, Docket No. 15195; order to show cause why there should not be revoked the license for Radio Station WR-8276 aboard the Vessel "Rufus."

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that pursuant to § 1.76 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee at his address of record as follows: "Letter dated January 21, 1963, concerning violation of §§ 8.366(e), 8.178, and 8.364(a) of the Commission's rules."

It further appearing that said licensee did not reply to such communication or to a follow-up letter dated Jan. 29, 1963, also mailed to the licensee at his address of record; and

It further appearing that in view of the foregoing, the licensee has repeatedly violated § 1.76 of the Commission's rules:

*It is ordered,* This 18th day of October 1963, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and § 0.291(b)(8) of Part 0 of the Commission's rules, that the said licensee show cause why the license for the above-captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order;

*And it is further ordered,* That the Secretary send a copy of this order by Certified Mail—Return Receipt Requested—to the said licensee at his last known

address of 20 Hillside Avenue, Millville, New Jersey.

Released: October 18, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 63-11259; Filed, Oct. 23, 1963; 8:48 a.m.]

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[Docket No. 14611; FCC 63M-1148]

## PROGRESS BROADCASTING CORP. (WHOM)

### Memorandum Opinion and Order Continuing Hearing

In re application of Progress Broadcasting Corporation (WHOM), New York, New York, Docket No. 14611, File No. BP-13915; for construction permit.

1. Progress Broadcasting Corporation (WHOM), on September 25, 1963, filed a petition requesting further continuance relative to the date for exchange of exhibits and commencement of hearing. It requested an indefinite continuance for the hearing date. Objections to the pleading were filed on behalf of K & M Publishing Company, Inc., and the Commission's Broadcast Bureau. Oral argument was heard October 11, 1963 on this pleading.

2. The facts relating to the background of the request for further continuance are set out in Memorandum Opinion and Order of the Hearing Examiner, released January 17, 1963 (FCC 63M-87) and referred to in the Review Board's Memorandum Opinion and Order, released March 14, 1963 (FCC 63R-124). It is not deemed necessary to again reiterate the facts involved in the instant request for continuance, which, however, brought right down to "bare bones" is that the applicant after it filed its application was apprised that its transmitter site might be taken through right of eminent domain by the New Jersey turnpike authorities. While K & M and the Broadcast Bureau argued strenuously against a grant of further continuance, it has not been brought to the attention of the Hearing Examiner where the future public interest can conceivably be affected by a further continuance while a cloud of condemnation hangs over the transmitter site of the applicant.

3. It is here again regarded that good and sufficient cause exists why further relief should be granted to the applicant.

*Accordingly, it is ordered,* This 17th day of October 1963, that the petition is granted in part and denied in part, and that the exchange of exhibits shall be accomplished on or before April 21, 1964 in lieu of October 7, 1963, and the hearing now scheduled for November 12, 1963, be and the same is hereby rescheduled for May 21, 1964, 10:00 a.m., in the Commission's Offices, Washington, D.C.

Released: October 18, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 63-11260; Filed, Oct. 23, 1963; 8:48 a.m.]

# FEDERAL MARITIME COMMISSION

[Docket No. 1017]

## ATLANTIC AND GULF-INDONESIA CONFERENCE

### Exclusive Patronage (Dual Rate) Contract; Interim Approval of Amendment to Exclusive Patronage (Dual Rate) System

Atlantic and Gulf-Indonesia Conference Agreement No. 8080 has filed a request for permission under section 14b of the Shipping Act, 1916 to increase the scope of its exclusive patronage (dual rate) system.

This conference amended its dual rate contract and filed such amended contract with the Commission pursuant to section 3 of Public Law 87-346. Said section 3 provides that such contract shall remain lawful for a period not beyond April 3, 1964 and that prior to such time the Commission shall approve, disapprove, cancel or modify such dual rate contract.

Notice of the filing of the request for permission to increase the scope of the contract rate system was published in the FEDERAL REGISTER on September 21, 1963 and interested persons were invited to comment thereon. No comments were received by the Commission pursuant to such publication.

Whereas, examination fails to show the modification to be unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or violative of the Shipping Act, 1916;

Now therefore, by virtue of the authority vested in the Commission;

*It is ordered,* That pursuant to section 14b of the Shipping Act, 1916, and without prejudice to the future action of the Commission pursuant to section 3 of Public Law 87-346, as amended, permission is granted to extend the scope of the Conference dual rate system to include ports in Portuguese Timor and West Irian.

By the Commission.

THOMAS LISI,
*Secretary.*

OCTOBER 16, 1963.

[F.R. Doc. 63-11255; Filed, Oct. 23, 1963; 8:48 a.m.]

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## DUMONT SHIPPING CO. ET AL.

### Notice of Agreements Filed for Approval

Notice is hereby given that the following agreements have been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916 (75 Stat. 763 and 46 U.S.C. 814). All parties involved are eligible to operate as independent ocean freight forwarders pursuant to section 44 of the Shipping Act, 1916.

Unless otherwise indicated, these agreements are non-exclusive, cooperative working arrangements under which the parties may perform freight forwarding services for each other, dividing forwarding and service fees as agreed on each transaction. Ocean freight compensation is to be divided between the parties as agreed.

Dumont Shipping Co., Inc., New York, New York, is party to the following agreements, the terms of which are identical. The other parties are:

Seaport Shipping Co., Portland, Oreg ---------- FF-1127
Gulf Forwarding Co., New Orleans, La ---------- FF-1128
J. K. Ebberwein, Savannah, Ga---- FF-1129

The following agreements have similar terms:

J. W. Allen & Co., Inc., New Orleans, La., and Tone Forwarding Corp., New York, N.Y---------- FF-1102
Vima Shipping Co., New York, N.Y. and Universal Transport Corp., New York, N.Y---------- FF-1103
Southern Shipping Co., Inc., Savannah, Ga. and Cavalier Shipping Co., Inc., Norfolk, Va---------- FF-1104
John H. Faunce, New York, Inc., New York, N.Y. and Joseph Craig and Co., Savannah, Ga---------- FF-1106
Uno Shipping Co., Inc., New York, N.Y. and Stone Forwarding Company, Inc., Houston, Tex---------- FF-1107
Lyons Export & Import, Inc., Chicago 3, Ill. and D. D. Klinger & Company, Indianapolis, Ind----- FF-1111
Fillette, Green & Co. of Tampa, Tampa, Fla. and H. A. Gogarty, Inc., New York, N.Y---------- FF-1113
H. A. Gogarty, Inc., New York, N.Y. and C. S. Greene & Co., Inc., Chicago, Ill---------- FF-1114
Bartz Forwarding Co., Inc., Brownsville, Tex. and Gerard F. Tujague, Inc., New Orleans, La---------- FF-1115
Loretz & Company, Los Angeles, Calif. (and branches) and Missionary Expediters, New Orleans, La ---------- FF-1116
John A. Merritt & Company, Pensacola, Fla. and Heide and Co., Inc., Wilmington, N.C---------- FF-1117
George M. Leininger Co., Inc., New Orleans, La. and W. O. Smith Co., Inc., New York, N.Y---------- FF-1118
Uno Shipping Co., Inc., New York, N.Y. and Coastal Forwarders, Charleston, S.C---------- FF-1119
Adolf Blum & Popper, Inc., New York, N.Y. and Charleston Overseas Forwarders, Inc., Charleston, S.C ---------- FF-1120
Heemsoth-Kerner Corp., New York, N.Y. and Herbert B. Moller, Jacksonville, Fla---------- FF-1121
United Forwarders Service, Inc., New York, N.Y. and Transoceanic Shipping Co., Inc., Houston, Tex- FF-1125
Gulf Florida Terminal Company, Tampa, Fla. and J. W. Allen & Company, Inc., New Orleans, La-- FF-1130
American Union Transport, Inc., New York, N.Y. and Charleston Overseas Forwarders, Inc., Charleston, S.C---------- FF-1131
Baker, Irons & Dockstader, Inc., New York, N.Y. and Win-Mar, Inc., New Orleans, La---------- FF-1132
Block Overseas Shipping Co., New York, N.Y. and Stanley Lindo & Co., Los Angeles, Calif---------- FF-1133

Interested persons may inspect these agreements and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C. or at the Commission's field offices at:

45 Broadway, New York, N.Y., 180 New Montgomery Street, San Francisco, Calif.

Room 333 Federal Office Building, South, 600 South Street, New Orleans 12, La.
Mail Address: P.O. Box 30550, Lafayette Station, New Orleans 30, La.

They may submit to the Secretary, Federal Maritime Commission, Washington, D.C., within twenty days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: October 18, 1963.

By the Federal Maritime Commission.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 63-11256; Filed, Oct. 23, 1963; 8:48 a.m.]

# FEDERAL POWER COMMISSION

[Docket No. RI64-191]

## ATLANTIC REFINING CO.

### Order Providing for Hearing on and Suspension of Proposed Change in Rate

OCTOBER 17, 1963.

On September 20, 1963, The Atlantic Refining Company (Atlantic) [1] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change,[2] dated September 19, 1963.
Purchaser and producing area: El Paso Natural Gas Company (Various Fields, Lea County, New Mexico) (Permian Basin Area).
Rate schedule designation: Supplement No. 15 to Atlantic's FPC Gas Rate Schedule No. 20.
Effective date: October 21, 1963.[3]
Amount of annual increase: $236,935.
Effective rate: 7.5 cents per Mcf.[4]
Proposed rate: 13.8103 cents per Mcf.[5] [6] [7]
Pressure base: 14.65 psia.

Atlantic requests a retroactive effective date of November 20, 1962, for its proposed renegotiated rate increase. Good cause has not been shown for granting Atlantic's request for the November 20, 1962, effective date and such request is denied.

Atlantic filed a letter agreement dated February 27, 1963, and a supplemental agreement dated November 20, 1962, defining the terms of a sale for spent lift gas processed in Warren Petroleum Corporation's Monument Plant and a notice of change in rate for spent lift gas.[8]

The letter agreement dated February 27, 1963, between Warren Petroleum Corporation (Warren) and El Paso Natural Gas Company (El Paso) cancels an agreement dated March 13, 1963, under which Continental Oil Company, Pan American Petroleum Corporation, Standard Oil Company of Texas and Atlantic agreed to sell to El Paso at a rate of 7.5 cents per Mcf the residue remaining after the gas lift gas was processed in Warren's Monument Plant.

The supplemental agreement dated November 20, 1962, is a contract amendment defining the conditions under which Warren will process the producer's spent lift gas and provides for a rate to El Paso of 14.0 cents per Mcf for the processed gas.

Atlantic's notice of change reflects an increase in rate from 7.5 cents to 14.0 cents per Mcf subject to a 0.5 cent per Mcf reduction for compression. The total rate of 13.8103 cents includes 0.3103 cent for tax reimbursement, of which 0.2582 cent is reimbursement for the full 2.55 percent New Mexico Oil and Gas Emergency School Tax which was increased from 2.0 percent to 2.55 percent on April 1, 1963. Gas well gas not used for lift purposes is sold at a 15.5744 cents per Mcf rate, presently effective subject to refund.[9]

El Paso has protested the rate increase filed by Atlantic. El Paso questions the right of Atlantic under its tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico tax legislation effected a higher tax rate of at least 0.55 percent, they claim that there is controversy as to whether or not the new legislation effected an increased tax rate in excess of 0.55 percent. Under the circumstances, we shall provide that the hearing provided for herein shall concern itself with the contractual basis as well as the statutory lawfulness of Atlantic's rate filing.

The proposed increased rate exceeds the applicable 11.0 cents per Mcf area ceiling for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR Ch. I, Part 2, § 2.56).

The increased rate and charge so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the contractual basis of the proposed filing, as well as the statutory lawfulness of Atlantic's proposed change, and that Supplement No. 15 to Atlantic's FPC Gas Rate Schedule No. 20 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the contractual basis of the proposed rate filing which El Paso has protested, and the statutory lawfulness of Atlantic's proposed increased rate and charge contained in Supplement No. 15 to Atlantic's FPC Gas Rate Schedule No. 20.

(B) Pending a hearing and decision thereon, Supplement No. 15 to Atlantic's FPC Gas Rate Schedule No. 20 is hereby suspended and the use thereof deferred until March 21, 1964, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention 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 and 1.37(f)) on or before December 4, 1963.

By the Commission.

[SEAL] GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63-11210; Filed, Oct. 23, 1963; 8:45 a.m.]

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[Docket Nos. CP63-126 etc.]

## EL PASO NATURAL GAS CO. ET AL.

### Order Allowing Withdrawal of Application and Severing Docket From Consolidated Proceeding

OCTOBER 17, 1963.

El Paso Natural Gas Company, Docket No. CP63-126; Southwest Production Company, Docket No. CI63-618; Pan American Petroleum Corporation, Docket No. CI63-1455; Pan American Petroleum Corporation, Docket Nos. CI64-169; CI64-170; CI64-171; CI64-172; CI64-173; CI64-174; CI64-175; CI64-176; CI64-177; CI64-178; CI64-179; CI64-180.

On September 23, 1963, Southwest Production Company (Southwest) filed in Docket No. CI63-618 a notice of withdrawal of its application for a certificate of public convenience and necessity filed November 9, 1962.

Questions concerning the proposed purchase of leases by Southwest from Pan American Petroleum Corporation (Pan American) and the sale of gas by Southwest to El Paso Natural Gas Company (El Paso) were raised in a prehearing conference. As a result thereof all

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[1] Address is: P.O. Box 2819, Dallas 21, Tex.
[2] Applicable only to spent lift gas.
[3] The stated effective date is the first day after expiration of the required thirty days' notice.
[4] Rate in original gas lift agreement.
[5] Includes 0.2581 cent per Mcf tax reimbursement for 75 percent of 2.55 percent N. Mex. Oil and Gas Emergency School Tax.
[6] Includes 0.5 cent per Mcf deduction for compression.
[7] Renegotiated rate increase.
[8] Gas well gas returned at a reduced pressure after injection into the well bore to lift oil.
[9] The last clean rate for high pressure gas well gas under Atlantic's rate schedule is 10.50118 cents per Mcf, including tax reimbursement.

of the applicants listed in the caption of this order decided that the transaction should be simplified and revised in a manner which eliminates Southwest as a participant.

During the course of the hearing in Docket Nos. CP63–126, et al., counsel for both Pan American and El Paso indicated that these two applicants were currently negotiating a new agreement and that they would subsequently file amendments to their original applications.

The Commission finds: It is appropriate in the administration of the Natural Gas Act that Southwest's request to withdraw its application in Docket No. CI63–618 be granted, and that such application be severed from the consolidated proceeding in Docket Nos. CP63–126, CI63–1455 and CI64–169 through CI64–180 inclusively.

The Commission orders:

(A) Southwest's applications in Docket No. CI63–618 is hereby severed from the consolidated proceeding in Docket Nos. CP63–126, CI63–1455, and CI64–169 through CI64–180.

(B) Southwest Production Company's request to withdraw its application filed November 9, 1962, is hereby granted pursuant to § 1.11(d) of the Commission's rules of Practice and Procedure.

By the Commission.

[SEAL] GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63–11211; Filed, Oct. 23, 1963; 8:45 a.m.]

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[Docket No. RI61–245]

## WILLIAM GRAHAM OIL CO. ET AL.

### Order Making Successor in Interest Co-Respondent, Redesignating Proceeding, and Requiring Successor To File Agreement and Undertaking

OCTOBER 17, 1963.

William Graham Oil Company (Operator), et al., and Cities Service Oil Company, Docket No. RI61–245.

Cities Service Oil Company (Cities Service) has reacquired, by reversion, a 25 percent interest in the property formerly dedicated under William Graham Oil Company (Operator), et al. (Graham) FPC Gas Rate Schedule No. 9, as supplemented, for the jurisdictional sale of natural gas in the Hugoton Field, Haskell County, Kansas, to Colorado Interstate Gas Company (Colorado Interstate). The presently effective rate under Graham's FPC Gas Rate Schedule No. 9 is 12.5 cents per Mcf, at 14.65 psia, which was suspended and placed into effect subject to refund in Docket No. RI61–245.

By letter order issued September 26, 1963, Cities Service was granted temporary authorization, in Docket No. CI63–1307, to sell gas to Colorado Interstate under Cities Service's FPC Gas Rate Schedule No. 165. The temporary authorization provided for a price of 12.5 cents per Mcf at 14.65 psia, subject to refunding to Colorado Interstate, from the date of temporary authorization, any amounts collected plus interest at seven percent per annum in excess of the rate determined to be just and reasonable for the subject sale in Docket No. RI61–245. It was also indicated that Cities Service would be made a corespondent in Docket No. RI61–245 by separate order.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act and the Regulations thereunder, that Cities Service be joined as corespondent with Graham in the rate proceeding in Docket No. RI61–245, that such proceeding be redesignated accordingly, and that Cities Service be required to file an agreement and undertaking in Docket No. RI61–245.

The Commission orders:

(A) Cities Service is hereby joined as corespondent with Graham in the proceeding in Docket No. RI61–245, and the proceeding is hereby redesignated as "William Graham Oil Company (Operator), et al. and Cities Service Oil Company".

(B) Within 30 days from the issuance of this order, Cities Service shall execute and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI61–245 to assure refund of any excess charges which the Commission may require in accordance with the provisions of the temporary authorization granted in Docket No. CI63–1307. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to be satisfactory and to have been accepted for filing.

(C) Cities Service shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and its agreement and undertaking filed in Docket No. RI61–245 shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63–11212; Filed, Oct. 23, 1963; 8:46 a.m.]

# INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

## COTTON TEXTILE PRODUCTS IN CATEGORY 63 PRODUCED OR MANUFACTURED IN THE PHILIPPINES

### Restriction on Entry or Withdrawal From Warehouse

OCTOBER 21, 1963.

There is published below a letter of October 21, 1963, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of Category 63 cotton textile and cotton textile products, restricted to certain designated Schedule A numbers (or T.S.U.S.A. numbers), produced or manufactured in the Philippines, which may be entered, or withdrawn from warehouse, for consumption in the United States from May 31, 1963, through May 30, 1964, be limited to 455,000 pounds.

This letter represents an amendment to the directive of August 14, 1963, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, published in the FEDERAL REGISTER on August 27, 1963 (28 F.R. 9399), concerning cotton textiles from the Philippines.

G. ERVIN DIXON,
*Acting Chairman, Interagency Textile Administrative Committee, and Acting Deputy to the Secretary of Commerce for Textile Programs.*

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

*October 21, 1963.*

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
*Washington, D.C.*

DEAR MR. COMMISSIONER: This letter supplements and amends my letter to you of August 14, 1963, published in the FEDERAL REGISTER on August 27, 1963 (28 F.R. 9399), regarding restraints on imports of cotton textiles and cotton textile products in Categories 39, 45, 52, 59, and 63, produced or manufactured in the Philippines. In that letter you were directed to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in the stated categories in excess of designated levels of restraint established for the twelve-month period beginning May 31, 1963, and extending through May 30, 1964.

The United States Government has now agreed to allow entry of an additional 200,000 pounds in Category 63, effective May 31, 1963, which would raise to 455,000 pounds the twelve-month level of restraint beginning May 31, 1963. In addition, the directive of August 14, 1963, above referred to, should be amended to restrict the level of restraint in Category 63 to Schedule A Nos. 3114 260 and 3114 960 (T.S.U.S.A. Nos. 382.03 77 and 380.03 63), effective May 31, 1963.

Accordingly, you are directed, under the terms of the Long Term Arrangement, including Article 6 relating to non-participants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1963, to prohibit, effective May 31, 1963, and for the period extending through May 30, 1964, entry into the United States for consumption and withdrawals from warehouse for consumption of cotton textiles and cotton textile products in Schedule A Nos. 3114 260 and 3114 960 (T.S.U.S.A. Nos. 382.03 77 and 380.03 63) of Category 63, produced or manufactured in the Philippines, in excess of the corrected level of restraint provided:

| Category | T.S.U.S.A. numbers | 12-month level of restraint | Corrected level of restraint |
|---|---|---|---|
| | | *Pounds* | *Pounds* |
| 63 | 382.03 77<br>380.03 63 | 255,000 | 455,000 |

Adjustments have not been made to reflect entries made during the period May 31, 1963, to date.

A detailed description of the listed T.S.U.S.A. numbers in Category 63 was published in the FEDERAL REGISTER on October 1, 1963 (28 F.R. 10551).

All other directions given in my letter of August 14, 1963, published in the FEDERAL REGISTER on August 27, 1963 (28 F.R. 9399), remain unchanged.

This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

LUTHER H. HODGES,
*Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.*

[F.R. Doc. 63-11250; Filed, Oct. 23, 1963; 8:48 a.m.]

## CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN POLAND

### Limitation on the Entry or Withdrawal From Warehouse

OCTOBER 21, 1963.

There is published below a letter of October 21, 1963, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of Category 35 cotton textile products produced or manufactured in Poland which may be entered, or withdrawn from warehouse, for consumption in the United States from August 30, 1963, through August 29, 1964, be limited to 72,000 units.

The above import control represents a continuation on a twelve-month basis of the restraint level set for Category 35 from Poland by letter of September 23, 1963, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, published in the FEDERAL REGISTER on September 26, 1963 (28 F.R. 10443).

G. ERVIN DIXON,
*Acting Chairman, Interagency Textile Administrative Committee, and Acting Deputy to the Secretary of Commerce for Textile Programs.*

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

*October 21, 1963.*

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
*Washington, D.C.*

DEAR MR. COMMISSIONER: This letter supplements my letter to you of September 23, 1963, appearing in the Federal Register on September 26, 1963 (28 F.R. 10443), regarding restraints on imports of cotton textiles and cotton textile products in Category 35, produced or manufactured in Poland. As you were advised in that letter, the United States Government on August 30, 1963, in furtherance of the objectives of, and under the terms of, the Long Term Arrangement Regarding International Trade done at Geneva on February 9, 1962, requested the Government of Poland to restrain the export of cotton textiles and cotton textile products in Category 35 to the United States during the twelve-month period beginning August 30, 1963. The period of discussion with the Government of Poland on the restraint request made by the United States, carried out under the terms of Article 3(3) of the Long Term Arrangement, will expire on October 29, 1963.

Accordingly, under the terms of the Long Term Arrangement, including Article 6 relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, you are directed to prohibit, effective immediately upon the expiration of the directive contained in my letter to you of September 23, 1963, referred to above, and for the period extending through August 29, 1964, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Category 35, produced or manufactured in Poland, in excess of the corrected level of restraint provided:

| Category | 12-month level of restraint | Corrected level of restraint |
|---|---|---|
| | *Units* | *Units* |
| 35 | 72,000 | 72,000 |

There have been no entries during the period August 30, 1963, to date.

In carrying out this directive, you shall allow entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Category 35, produced or manufactured in Poland, when such goods have been exported to the United States from Poland prior to August 30, 1963, regardless of whether the restraint levels have been filled, and such goods, exported to the United States from Poland prior to August 30, 1963, are not to be counted against the restraint level even if not filled at the time of entry.

A detailed description of the category listed in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on October 1, 1963 (28 F.R. 10551).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Poland and with respect to imports of cotton textiles and cotton textile products from Poland have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of Section 4 of the Administrative Procedure Act. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

LUTHER H. HODGES,
*Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.*

[F.R. Doc. 63-11251; Filed, Oct. 23, 1963; 8:48 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1611]

## A.V.C. CORP.

### Notice of Filing of Application for Order Permitting Issuance of Shares Below Net Asset Value

OCTOBER 17, 1963.

Notice is hereby given that A.V.C. Corporation ("A.V.C."), 1617 Pennsylvania Boulevard, Philadelphia, Pennsylvania, a closed-end investment company which is registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 23(b)(5) of the Act or alternatively pursuant to section 6(c), for an order of the Commission permitting the issuance of stock of A.V.C. at less than net asset value, in accordance with the terms of outstanding options to purchase such stock. All interested persons are referred to the application on file with the Commission for a complete statement of A.V.C.'s representations, which are summarized below.

On January 21, 1963, A.V.C., which was then known as American Viscose Corporation, a leading producer of rayon, acetate and cellophane, entered into an agreement with FMC Corporation ("FMC") whereby it agreed to sell to FMC all of its assets, except certain marketable securities, cash and shares of common stock of Monsanto Chemical Company, for the sum of $116,000,000 (subject to certain adjustments) plus the assumption by FMC of certain liabilities of A.V.C. On April 4, 1963, A.V.C. registered under the Act. The transactions with FMC were consummated on August 5, 1963, and the total assets of A.V.C. as of the following day consisted of cash and cash items amounting to $177,318,124 and stock of Monsanto Chemical Company valued at market in the amount of $189,675,324. There were 4,755,024 shares of A.V.C. common stock outstanding as of the latter date.

A.V.C. had had in effect since November 1950 a stock option plan for its principal officers, executives and key managerial employees. As of the date of the agreement with FMC, A.V.C. had outstanding options to purchase 38,527 shares of A.V.C. common stock. No options have been granted since December 1961. Under the terms of the agreement with FMC, the latter agreed to substitute options to purchase FMC stock for options granted by A.V.C. but only with respect to those options which by their terms could not have been exercised prior to August 5, 1963. As a result of this provision of the agreement between A.V.C. and FMC, options to purchase a total of 4,714 shares of A.V.C. stock were still outstanding on August 6, 1963, of which options to purchase 2,228 shares were held by five officers of A.V.C. and the remaining options were held by employees other than officers. Such options are exercisable at prices ranging from $27 to $54.25 per share. All of the outstanding options qualify as restricted stock options under section 421(d) of the Internal Revenue Code of 1954. Pursuant to the agreement with FMC, all officers and employees of A.V.C. who held the above options became employees of FMC as of August 5, 1963 and their employment by A.V.C. terminated on that date. Under the A.V.C. stock option plan the presently outstanding options will lapse unless exercised within three months after the termination of such employment. Accordingly, the options in question must be exercised by November 5, 1963.

Since the net asset value of A.V.C. stock as of August 6, 1963, was approximately $77 per share, the exercise of the above options would require the company to issue stock at a price below the net asset value, contrary to the provisions of section 23(b) of the Investment Company Act. Section 23(b) provides in pertinent part that no registered closed-end company shall sell any of its common

stock below the current net asset value of such stock, except (1) in connection with an offering to the holders of one or more classes of its capital stock; (2) with the consent of a majority of its common stockholders; (3) upon conversion of a convertible security in accordance with its terms; (4) upon the exercise of any warrant outstanding on the date of enactment of this Act or issued in accordance with the provisions of section 18(d) of the Act, or (5) under such other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors. Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. A.V.C. requests that the Commission issue an order pursuant to section 23(b)(5) or, alternatively, pursuant to section 6(c) permitting the issuance of the 4,714 shares of A.V.C. at less than net asset value, upon the exercise of the presently outstanding options.

In support of the application it is stated that the options to purchase A.V.C. stock presently exercisable were granted at a time when the company was not an investment company and became a valid obligation of the company. In addition, the application points out that, since the option plan was approved by the company's stockholders, they have consented to the issuance of stock at the option prices, recognizing that the options would not be exercised unless the market value of the company's stock were considerably higher than the option price. The shareholders approved the original adoption of the plan in November 1950 and the revisions of the plan in October 1955 and May 1958. The issuance of 4,714 shares of A.V.C. pursuant to the outstanding options would result in a reduction in the net asset value per share of A.V.C., computed as of August 6, 1963, from $77.18 to $77.143, or less than four cents per share.

Notice is further given that any interested person may, not later than October 31, 1963, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon A.V.C. at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 63–11230; Filed, Oct. 23, 1963; 8:47 a.m.]

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[File No. 24SF–2981]

## BLUE HAVEN POOLS

### Notice and Order for Hearing

OCTOBER 18, 1963.

I. Blue Haven Pools (issuer) was incorporated in California in 1955 to engage in the general business of constructing, equipping and maintaining swimming pools, present address 11933 Vose Street, North Hollywood, California.

On November 1, 1961, issuer and Norman Udkoff, Harold Udkoff, Leon Zisfain and Jack A. Berg, as selling stockholders, filed with the San Francisco Regional Office a notification on Form 1–A, form of underwriting agreement, and proposed form of offering circular relating to an offering of 35,000 shares, on behalf of issuer, and 20,000 shares, on behalf of the selling stockholders, of issuer's $1.00 par value common capital stock at $4.00 per share, for an aggregate offering price of $220,000.00, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder. Pacific Coast Securities Company, a corporation of San Francisco, California, was the underwriter.

II. The Commission, on September 18, 1963, issued an order pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the issuer's exemption under Regulation A, and affording to any person having any interest therein an opportunity to request a hearing. A written request for a hearing has been received by the Commission.

The Commission deems it necessary and appropriate that a hearing be held for the purpose of determining whether it should vacate the temporary suspension order or enter an order of permanent suspension in this matter.

*It is hereby ordered,* Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that a hearing be held at 10:00 a.m., P.s.t., on November 13, 1963, at the San Francisco Regional Office of the Commission, 821 Market Street, San Francisco, California, with respect to the matters set forth in section II of the Commission's order dated September 18, 1963, which temporarily suspended the Regulation A exemption of Blue Haven Pools, without prejudice, however, to the specification of additional issues which may be presented in these proceedings.

III. *It is further ordered,* That Sidney Gross, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing; that any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all the powers granted to the Commission under sections 19(b), 21 and 22(c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

*It is further ordered,* That the Secretary of the Commission shall serve a copy of this order by registered mail on Blue Haven Pools and that notice of the entering of this order shall be given to all persons by general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate in the hearing shall file with the Commission on or before November 8, 1963, a request relative thereto as provided in Rule 9(c) of the Commission's rules of practice.

*It is further ordered,* That Blue Haven Pools, pursuant to Rule 7 of the rules of practice of the Commission (17 CFR 201.7), shall file an answer to the allegations set forth in section II of the Commission's order dated September 18, 1963. Such answer shall be filed in the manner, form and within the time prescribed by 17 CFR 201.7 and shall specifically admit or deny or state that Blue Haven Pools does not have, and is unable to obtain, sufficient information to admit or deny each of the allegations set forth in section II of the Commission's order dated September 18, 1963.

Notice is hereby given that if Blue Haven Pools fails to file an answer pursuant to 17 CFR 201.7 within fifteen days after service upon it of this notice and order for hearing, the proceedings may be determined against Blue Haven Pools by the Commission upon consideration of this notice and order for hearing and said allegations in section II of the Commission's order dated September 18, 1963, may be deemed to be true.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 63–11231; Filed, Oct. 23, 1963; 8:47 a.m.]

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[File No. 812–1619]

## GREAT LAKES INDUSTRIES, INC.

### Notice of and Order for Hearing on Application for Order That Company Is Not an Investment Company

OCTOBER 17, 1963.

Notice is hereby given that Great Lakes Industries, Inc. ("Applicant"), 521 West 6th Street, Monmouth, Illinois, an Illinois corporation, has filed an application pursuant to section 3(b)(2) of the Investment Company Act of 1940 ("Act") for an order of the Commission declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trad-

ing in securities, either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses. All interested persons are referred to the application, which is on file with the Commission, for a full statement of applicant's representations, which are summarized below.

Section 3(a)(1) of the Act defines an investment company as an issuer which is or holds itself out as being engaged primarily or proposes to engage primarily in the business of investing, reinvesting, or trading in securities. Section 3(a)(3) of the Act defines an investment company as an issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of the issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. For the purposes of section 3(a)(3), "investment securities" includes all securities except Government securities, securities issued by employees' securities companies, and securities issued by majority-owned subsidiaries of the issuer which are not investment companies.

Applicant states that prior to 1960 it engaged in the business of producing metal platings and that since November 1960, when it merged with Western Stoneware Company, a manufacturer of clay products, it has continued to produce metal platings, but has been primarily engaged in the business of manufacturing commercial stoneware and related clay products. During 1962, Great Lakes' sales of metal platings and of commercial stoneware and clay products amounted to $650,869 and $1,471,113, respectively.

Applicant also states that between November 1961 and November 1962 it acquired 179,423 shares, or approximately 25.1 percent of the outstanding capital stock of Natco Corporation ("Natco"), which is engaged in the business of manufacturing structural clay products, with a view towards participating in the control and management of Natco.

The application indicates that as of June 30, 1962, the assets of Great Lakes, stated at cost, aggregated $3,320,480, including $268,483 of cash, $492,784 of fixed assets, net of depreciation, and $2,149,607 representing the cost of Great Lakes' interest in Natco. The latter amount is equivalent to approximately 70.4 percent of the cost of Great Lakes assets exclusive of cash. Applicant states that the market value of its interest in the stock of Natco at June 30, 1962 was $1,547,523, which is equal to approximately 63 percent of Great Lakes' total assets (less cash), adjusted to reflect the interest in Natco at the market value indicated hereinabove.

The application states that it is the belief of Great Lakes' management that the fair market value of Great Lakes' fixed assets is many times their net book value shown hereinabove. On such basis, Great Lakes would not be an investment company as defined in section 3(a)(3). The application does not assign the reasons for the management's belief as to the fair market value of Great Lakes' fixed assets.

Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(3), the term "investment company" does not include an issuer which the Commission finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses.

The Applicant states that it has approximately 300 employees, all of whom are engaged in its manufacturing operations; that it employs no securities analysts or investment advisers; that its holdings of Natco stock, which are "investment securities' for the purposes of section 3(a)(3), are the only such securities it owns; and that "The activities of Great Lakes in acquiring and holding the stock of Natco have been concentrated upon participation in the control and management of Natco."

In the latter connection, the application states that four directors of Great Lakes are also members of Natco's board of directors consisting of ten members; that one of Great Lakes' directors who is serving as a director of Natco is also a member of the Executive Committee of Natco; that the Great Lakes' representatives on Natco's board of directors, particularly the one also serving on the Executive Committee of Natco, have participated in the management of Natco; and that such activities described in the application demonstrate the ability of Great Lakes to exercise a controlling influence in the management of Natco.

According to the application, the Great Lakes' representatives obtained their positions in the management of Natco under the following circumstances: In April 1962, about four months after Great Lakes started to acquire Natco stock, Great Lakes' holdings of Natco stock and also shares of Natco owned by others not identified in the application were voted to elect one of Great Lakes' directors to the board of directors of Natco. In July 1962 the individual so elected as a director of Natco became a member of Natco's Executive Committee.

Applicant states that in August 1962, eight months after it began to purchase Natco stock, it joined other substantial Natco stockholders who are not identified in requesting majority representation on Natco's board of directors, and when this request was refused, Applicant attempted to have a special meeting of Natco stockholders held in order to attempt the removal of the then incumbent board of directors and the election of a new board of directors. Applicant further states that it initiated the formation of a committee to solicit proxies for the election of its six nominees, five of whom were directors of Great Lakes, to the board of directors of Natco consisting of ten members.

Applicant states that a special meeting of Great Lakes' stockholders was not held as a result of the commencement of legal action by Natco in the United States District Court for the Western District of Pennsylvania and the issuance by the Court of a temporary injunction prohibiting all parties from further solicitation of proxies and postponing the special meeting. Applicant states that it filed an appeal, but since it appeared that a decision on the appeal could not be obtained in time to permit Great Lakes to solicit proxies for the April 1963 meeting, a compromise slate of directors was elected at the annual meeting of Great Lakes' stockholders in 1963 consisting of four individuals who are directors of Great Lakes and six previous directors of Natco who had opposed Great Lakes in the Natco proxy contest.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application pursuant to section 3(b)(2) of the Act:

*It is ordered,* Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and of the rules of the Commission thereunder be held on the 4th day of November 1963 at 10:00 a.m. in the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington, D.C., 20549. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's rules of practice, on or before the date provided in the Rule, setting forth any issues of law or fact which he desires to controvert or any additional issues which he deems raised by this notice and order or by such application.

*It is further ordered,* That Sidney Ullman, or any officer or officers of the Commission, designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether Great Lakes Industries, Inc. is an investment company within the meaning of section 3(a)(3) of the Investment Company Act of 1940, and

(2) Whether Great Lakes Industries, Inc. is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses:

*It is further ordered,* That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by regis-

tered mail to Great Lakes Industries, Inc. and Natco Corporation, and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER, and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 63-11232; Filed, Oct. 23, 1963; 8:47 a.m.]

[File No. 812-1608]

## ROANOKE BUILDING CO., ET AL.

### Notice of Filing of Application for Order Exempting Transaction Between Affiliates

OCTOBER 18, 1963.

Notice is hereby given that The Roanoke Building Company ("Roanoke"), a Delaware corporation, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 17(a) of the Act a proposed borrowing by Roanoke from Investors Syndicate of America, Inc. ("ISA"). All interested persons are referred to the application, which is on file with the Commission, for a full statement of the representations therein, which are summarized below.

ISA is registered under the Act as a face-amount certificate company and is engaged in the issuance of face-amount certificates and investment of substantial amounts of the proceeds therefrom in mortgage loans on real estate. ISA is a wholly-owned subsidiary of Investors Diversified Services, Inc. ("IDS"), also registered under the Act as a face-amount certificate company. IDS owns at the present time approximately 34.38 percent of the outstanding common stock of Roanoke. Accordingly, Roanoke is an affiliated person of IDS.

The principal asset of Roanoke, a real estate holding company, is the leasehold estate and improvements known as the Roanoke Building which is located at the southeast corner of Seventh Street and Marquette Avenue, Minneapolis, Minnesota. Baker Properties, Inc. owns 51 percent of the outstanding capital stock of Roanoke and manages and operates the property of Roanoke. The application relates to a proposed mortgage loan from ISA to Roanoke in the amount of $3,000,000 for the purpose of providing funds to finance the construction of an addition to the Roanoke Building and certain further capital improvements being made therein, and in connection therewith to refinance the unpaid balance of the $550,000 mortgage loan made by ISA to Roanoke on April 28, 1958 which was the subject of an order of the Commission (Investment Company Act Release No. 2697 dated April 17, 1958). The proposed loan will be secured by a first mortgage upon the first leasehold estate owned by Roanoke in the property, will bear interest at the rate of 5½ percent per annum, and is to be fully amortized over a twenty-year period by quarterly payments of $62,065.06 including principal and interest throughout the loan terms, together with quarterly payments of such amounts as are estimated by ISA to be necessary to establish funds sufficient to pay insurance premiums and real estate taxes before the same become delinquent. The application states that the security for the proposed loan and the terms thereof are satisfactory to ISA and that the loan will be an eligible investment under the insurance code of the District of Columbia, which Code determines the eligibility of investments for a registered face-amount certificate company.

The application contains an opinion by mortgage bankers that an interest rate of 5½ percent on the subject mortgage at this time is competitive and proper. In addition, ISA states that the following are some of the factors which were given consideration in establishing the interest rate: the excellent location of the building, the strong financial position of the obligors, the management experience of the borrowers, the conservative loan as compared to the appraised value of the building, and the current leasing program with 72 percent of the space already under lease.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered investment company or any person controlled by such registered investment company, any security or other property, or borrowing from any such company, subject to certain exceptions, unless the Commission upon application pursuant to section 17(b) grants an exemption from the provisions of section 17(a), after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than November 1, 1963, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 63-11233; Filed, Oct. 23, 1963; 8:47 a.m.]

# SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 448]

## ALASKA

### Declaration of Disaster Area

Whereas, it has been reported that during the month of October 1963, because of the effects of certain disasters, damage resulted to residences and business property located in the area of Point Barrow, State of Alaska;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid area, suffered damage or destruction resulting from storm and accompanying conditions occurring on or about October 4, 1963.

OFFICES

Small Business Administration Regional Office, 506 Second Avenue, Seattle 4, Wash.

Small Business Administration Branch Office, 307 East Penthouse, Anchorage, Alaska

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1964.

Dated: October 10, 1963.

EUGENE P. FOLEY, *Administrator.*

[F.R. Doc. 63-11234; Filed, Oct. 23, 1963; 8:47 a.m.]

# DEPARTMENT OF LABOR

## Wage and Hour Division

## CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS IN RETAIL OR SERVICE ESTABLISHMENTS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 561 (27 F.R. 4001), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, type of establishment and total number of employees of the establishment are as indicated below. Pursuant to § 519.6(b) of the regulation, the minimum certificate rates are not less than 85 percent of the minimum applicable under section 6 of the Fair Labor Standards Act.

The following certificates were issued pursuant to paragraphs (c) and (g) of § 519.6 of 29 CFR Part 519, providing for an allowance not to exceed the proportion of the total number of hours worked by full-time students at rates below $1.00 an hour to the total number of hours worked by all employees in the establishment during the base period, or 10 percent, whichever is lesser, in occupations of the same general classes in which the establishment employed full-time students at wages below $1.00 an hour in the base period.

REGION II

The Mart, Inc., 180 Main Street, Paterson, N.J.; effective 10–4–63 to 9–2–64 (apparel store; 106 employees).

REGION IV

Sterling's-Pike, Inc., 2627 Pike Avenue, North Little Rock, Ark.; effective 10–3–63 to 9–2–64 (variety store; 15 employees).

REGION VII

Buttreys, Fargo, N. Dak.; effective 9–24–63 to 3–31–64 (apparel store; 12 employees).

Buttreys, Minot, N. Dak.; effective 9–24–63 to 3–31–64 (apparel store; 9 employees).

Buttreys, Sioux Falls, S. Dak.; effective 9–24–63 to 3–31–64 (apparel store; 9 employees).

Carrollton Foods, Inc., IGA Foodliner, No. 15, 905 South Main, Carrollton, Mo.; effective 9–23–63 to 3–31–64 (food store; 23 employees).

Co-op Thriftway Grocery, 423 North Maple, McPherson, Kans.; effective 8–12–63 to 3–31–64 (food store; 12 employees).

P. N. Hirsch Co., Moberly, Mo.; effective 10–4–63 to 9–2–64 (department store; 15 employees).

Riverside Red X Co., P.O. Box 9008, Kansas City, Mo.; effective 6–10–63 to 3–31–64 (food store; 158 employees).

Weldorado Drug Co., 800 Ninth Street, Greeley, Colo.; effective 9–5–63 to 3–31–64 (drug store; 10 employees).

F. W. Woolworth Co., No. 1099, 607–609 Locust Street, Chillicothe, Mo.; effective 6–18–63 to 3–31–64 (variety store; 19 employees).

F. W. Woolworth Co., 1109 Main Street, Kansas City, Mo.; effective 6–18–63 to 3–31–64 (variety store; 90 employees).

REGION VIII

Popular Dry Goods Co., Inc., Texas-Mesa-San Antonio Streets, Box 1890, El Paso, Tex.; effective 9–29–63 to 3–1–64 (department store; 757 employees).

REGION XI

W. T. Grant Co., No. 849, 736 North Edgewood Avenue, Jacksonville, Fla.; effective 10–11–63 to 9–2–64 (variety store; 34 employees).

Harvey Breeding Drug Co., Inc., 1400 South Federal Highway, Hollywood, Fla.; effective 10–4–63 to 8–31–64 (drug store; 65 employees).

The following certificates were issued to establishments coming into existence after May 1, 1960, under paragraphs (c), (d), (g), and (h) of § 519.6 of 29 CFR, Part 519. The certificates permit the employment of full-time students at rates of not less than 85 cents an hour in the classes of occupations listed, and provide for limitations on the percentage of full-time student hours of employment at rates below $1.00 an hour to total hours of employment of all employees. The percentage limitations vary from month to month between the minimum and maximum figures indicated.

H. E. B. Food Store, No. 18, Kostoryz & Gollihar, Corpus Christi, Tex.; effective 10–3–63 to 9–2–64; package boy, bottle boy, sack boy; 10 percent for each month (food store; 47 employees).

H. E. B. Food Store, No. 83, 3680 Fredericksburg Road, San Antonio, Tex.; effective 10–3–63 to 9–2–64; package boy, bottle boy, sack boy; 10 percent for each month (food store; 38 employees).

S. S. Kresge Co., No. 195, Bangor Shopping Center, 625 Broadway, Bangor, Maine; effective 10–5–63 to 9–2–64; sales clerk; 10 percent for each month (variety store; 29 employees).

S. S. Kresge Co., No. 264, Yorkridge Shopping Center, 50 West Ridgely Road, Lutherville, Md.; effective 10–3–63 to 9–2–64; sales clerk; 10 percent for each month (variety store; 32 employees).

S. S. Kresge Co., No. 720, Parkwood Plaza, 3209 West Colonial Drive, Orlando, Fla.; effective 10–5–63 to 9–2–64; sales clerk; between 5.0 percent and 10 percent (variety store; 18 employees).

S. S. Kresge Co., No. 746, 354 North Star Mall, San Antonio, Tex.; effective 10–3–63 to 9–2–64; sales clerk; between 4.9 percent and 10 percent (variety store; 34 employees).

S. S. Kresge Co., No. 770, Milner Center, 6397 Camp Bowie Boulevard, Fort Worth, Tex.; effective 10–5–63 to 9–2–64; sales clerk; between 4.9 percent and 10 percent (variety store; 18 employees).

G. C. Murphy Co., No. 293, 2300 Northway Mall, McKnight Road at Babcock Boulevard; Pittsburgh, Pa.; effective 10–1–63 to 9–2–64; sales clerk, stock clerk, janitor, office clerk; between 8.6 percent and 10 percent (variety store; 58 employees).

F. W. Woolworth Co., No. 2585, Reisterstown Road Plaza, 6550 Reisterstown Road, Baltimore, Md.; effective 10–3–63 to 9–2–64; sales clerk; between 6.0 percent and 10 percent (variety store; 61 employees).

The following certificates were issued to establishments under paragraph (k) of § 519.6 of 29 CFR, Part 519. These certificates supplement certificates issued pursuant to other paragraphs of that section, but do not authorize the employment of full-time students at rates below $1.00 an hour in additional occupations. The certificates contain limitations on the percentage of full-time student hours of employment at rates below $1.00 an hour to total hours of employment of all employees. The additional allowances apply to the specified months and vary from month to month between the minimum and maximum figures indicated.

G. C. Murphy Co., No. 91, Frederick Avenue Shopping Center, Frederick Avenue, Baltimore, Md.; effective 10–1–63 to 9–2–64; between 2.7 percent and 10.8 percent for the months of October, December, June through September (variety store; 51 employees).

G. C. Murphy Co., No. 134, 1200–02–04 West Baltimore Street, Baltimore, Md.; effective 10–1–63 to 9–2–64; between 1.0 percent and 9.1 percent for the months of October through January, March through September (variety store; 75 employees).

G. C. Murphy Co., No. 152, 6863–65 Loch Raven Boulevard, Baltimore, Md.; effective 10–1–63 to 9–2–64; between 1.0 percent and 16.2 percent for the months of October through September (variety store; 49 employees).

G. C. Murphy Co., No. 228, West Chester Pike and Eagle Road, Havertown, Pa.; effective 10–1–63 to 9–2–64; between 1.0 percent and 12.6 percent for the months of October through September (variety store; 56 employees).

G. C. Murphy Co., No. 232, 1200 Market Street, Box 266, Lemoyne, Pa.; effective 10–1–63 to 9–2–64; between 1.3 percent and 4.8 percent for the months of October, December, May, July through September (variety store; 59 employees).

G. C. Murphy Co., No. 238, 2027 Mondawmin Mall, Baltimore, Md.; effective 10–1–63 to 9–2–64; between 2.3 percent and 12.7 percent for the months of October through September (variety store; 115 employees).

G. C. Murphy Co., No. 246, 62d and Woodland, Philadelphia, Pa.; effective 10–1–63 to 9–2–64; between 1.0 percent and 5.7 percent for the months of October, December, July through September (variety store; 65 employees).

G. C. Murphy Company, No. 271, 1836 Stefko Boulevard, Bethlehem, Pa.; effective 10–1–63 to 9–2–64; between 1.0 percent and 14.3 percent for the months of October through June, August, September (variety store; 39 employees).

G. C. Murphy Co., No. 285, 3901–03 Erdman Avenue, Baltimore, Md.; effective 10–1–63 to 9–2–64; between 2.7 percent and 10.8 percent for the months of October, December, June through September (variety store; 38 employees).

Rose's Stores, Inc., No. 21, 1041 Roanoke Avenue, Roanoke Rapids, N.C.; effective 12–1–63 to 8–31–64; between 1.0 percent and 19.3 percent for the months of December, June through August (variety store; 29 employees).

Rose's Stores, Inc., No. 26, Broad Street, Dunn, N.C.; effective 12–1–63 to 7–31–64; between 2.4 percent and 3.2 percent for the months of December and July (variety store; 23 employees).

Rose's Stores, Inc., No. 31, North Main Street, Farmville, Va.; effective 12–10–63 to 9–2–64; between 1.0 percent and 13.2 percent for the fiscal months beginning in December, May through August (variety store; 16 employees).

Rose's Stores, Inc., No. 42, 1250 Carolina Avenue, Hartsville, S.C.; effective 12–11–63 to 8–20–64; between 1.8 percent and 20.0 percent for the fiscal months ending in December and August (variety store; 16 employees).

Rose's Stores, Inc., No. 43, 102 Main Street, Clinton, N.C.; effective 10–1–63 to 9–2–64; between 2.7 percent and 20.0 percent for the months of October through December, June through September (variety store; 17 employees).

Rose's Stores, Inc., No. 48, Main Street, Newberry, S.C.; effective 10–9–63 to 9–2–64; between 5.1 percent and 19.2 percent for the fiscal months ending in November, December, June through September (variety store; 18 employees).

Rose's Stores, Inc., No. 49, Main Street, Union, S.C.; effective 10–1–63 to 9–2–64; between 4.4 percent and 20.0 percent for the months of October through December, June through September (variety store; 23 employees).

Rose's Stores, Inc., No. 50, 206–208 North Queen Street, Kinston, N.C.; effective 12–1–63 to 8–31–64; between 1.0 percent and 9.4 percent for the months of December, June through August (variety store; 31 employees).

Rose's Stores, Inc., No. 65, Duke of Gloucester Street, Williamsburg, Va.; effective 12–1–63 to 9–2–64; between 1.5 percent and 10.1 percent for the months of December, June through September (variety store; 26 employees).

Rose's Stores, Inc., No. 71, Main Street, Ahoskie, N.C.; effective 12–1–63 to 8–31–64; between 5.7 percent and 9.3 percent for the months of December, July, August (variety store; 17 employees).

Rose's Stores, Inc., No. 76, Broad Street, Camden, S.C.; effective 10–1–63 to 9–2–64; between 5.7 percent and 20.0 percent for the months of October through December, June through September (variety store; 23 employees).

Rose's Stores, Inc., No. 80, 117–119 South Wayne Street, Milledgeville, Ga.; effective 10–15–63 to 9–2–64; between 4.0 percent and 20.0 percent for the fiscal months ending in November through January, June through September (variety store; 15 employees).

Rose's Stores, Inc., No. 99, Evans Street, Greenville, N.C.; effective 7–23–64 to 8–19–64; 5.2 percent for the fiscal month beginning in July (variety store; 27 employees).

Rose's Stores, Inc., No. 102, 1815 Watson Boulevard, Warner Robins, Ga.; effective 12–1–63 to 9–2–64; between 2.3 percent and 12.5 percent for the months of December, July through September (variety store; 34 employees).

Rose's Stores, Inc., No. 107, 1904 Atlantic Avenue, Virginia Beach, Va.; effective 10–2–63 to 9–2–64; between 1.0 percent and 20.0 percent for the fiscal months ending in November through January, July through September (variety store; 13 employees).

Rose's Stores, Inc., No. 129, West 21st Street, Norfolk, Va.; effective 10–1–63 to 9–2–64; between 1.0 percent and 6.8 percent for the months of October, December, June through September (variety store; 36 employees).

Rose's Stores, Inc., No. 137, 31st Street, Virginia Beach, Va.; effective 10–1–63 to 9–2–64; between 4.3 percent and 20.0 percent for the months of December, June through September (variety store; 26 employees).

Sterling's-Airways, Inc., 2240 Lamar Avenue, Memphis, Tenn.; effective 10–1–63 to 9–2–64; between 3.6 percent and 20.0 percent for the months of October through December, March through September (variety store; 22 employees).

Sterling's of Jacksonville, Inc., Jacksonville, Ark.; effective 10–1–63 to 9–2–64; between 1.0 percent and 20.0 percent for the months of October through December, March through September (variety store; 16 employees).

Sterling's-Park, Inc., University Avenue and Markham Street, Little Rock, Ark.; effective 10–1–63 to 9–2–64; between 1.0 percent and 20.0 percent for the months of October through December, March through September (variety store; 22 employees).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not tend to displace full-time employees. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 17th day of October 1963.

ROBERT G. GRONEWALD,
*Authorized Representative of the Administrator.*

[F.R. Doc. 63–11229; Filed, Oct. 23, 1963; 8:47 a.m.]

# INTERSTATE COMMERCE COMMISSION

## FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 21, 1963.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 38606: *Billets or blooms iron or steel from Steelton, Ky.* Filed by O. W. South, Jr., agent (No. A4385), for interested rail carriers. Rates on iron or steel billets or blooms, also ingots, in carloads, from Steelton, Ky., to Bessemer, Homestead, Mifflin Junction, and Rankin, Pa.

Grounds for relief: Market competition.

Tariff: Supplement 22 to Southern Freight Association, agent, tariff I.C.C. S–224.

By the Commission.

[SEAL] HAROLD D. MCCOY,
*Secretary.*

[F.R. Doc. 63–11240; Filed, Oct. 23, 1963; 8:47 a.m.]

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[Notice No. 885]

## MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 21, 1963.

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 reconsideration 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 66294. By order of October 15, 1963, the Transfer Board approved the transfer to Slaney Transfer, Inc., Dodgeville, Wis., of Certificate in No. MC 124449, issued November 6, 1962, to Pat Hennessey and George Slaney, a partnership, doing business as H & S Transfer, Dodgeville, Wis., authorizing the transportation of: Fertilizer, from Fulton, Ill., to points in Grant, Lafayette, Iowa, and Crawford Counties, Wis. Edward Solis, 1 South Pinckney Street, Madison 3, Wis., attorney for applicants.

No. MC–FC 66297. By order of October 15, 1963, the Transfer Board approved the transfer to Chester Hodgdon, doing business as Marshall Motor Coach, Marshalltown, Iowa of Certificate in No. MC 119824, issued May 21, 1962, to Wendell D. Myers, doing business as Iowa Stockmen's Transportation, State Center, Iowa, authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, in special operations, over irregular routes, between Ames, Iowa and the stockyards of the Union Stock Yard and Transit Company of Chicago, Ill., serving points in Iowa, which are located on U.S. Highway 30 from Ames to the Iowa-Illinois State line. This service is restricted to the transportation of passengers picked up or discharged at the stockyards of the Union Stock Yard and Transit Company at Chicago. William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa, representative for applicants.

No. MC–FC 66300. By order of October 15, 1963, the Transfer Board approved the transfer and substitution of Giroux Bros. Transportation, Inc., Shrewsbury, Mass., as applicant in the "claimed grandfather rights" proceeding seeking the issuance of a Certificate of Registration, filed February 6, 1963, on Form BOR 99, assigned No. MC 98489 (Sub-No. 1) covering operations in interstate or foreign commerce under the former second proviso of Section 206(a)(1) of the Act, supported by Massachusetts Certificate No. 3511, pursuant to a Form BMC 75 Statement accepted October 27, 1952, in the name of L. T. Giroux, Newtonville, Mass., No. MC 98489, covering the transportation of: Property, between points in Massachusetts. Joseph A. Kline, 185 Devonshire Street, Boston, Mass., attorney for applicants.

No. MC–FC 66303. By order of October 15, 1963, the Transfer Board approved the transfer to Aimee Hensley, doing business as Hensley Freight Lines, Marion, Tex., of the operating rights claimed in No. MC 57969 (Sub-No. 1) under the "grandfather" clause of Section 206(a)(7)(B), Interstate Commerce Act, by L. E. Hensley, Aimee Hensley (Independent Executrix), Marion, Texas, and the substitution of transferee as applicant for a certificate of registration

from this Commission, corresponding to the grant of intrastate authority to L. E. Hensley, doing business as Hensley Freight Lines, issued by the Railroad Commission of Texas in No. 2892. Phillip Robinson, c/o James, Robinson and Starnes, 721 Brown Building, Austin 1, Tex., attorney for applicants.

No. MC–FC 66315. By order of October 15, 1963, the Transfer Board approved the transfer to John W. Cartmill, doing business as Edmond Motor Freight, 309 Brentwood, Edmond, Okla., applicant in No. MC 85997 (Sub-No. 1), BOR–99 filed in the name of D. E. Nay, doing business as Edmond Motor Freight, P.O. Box 63, Edmond, Okla., for certificate of registration to operate in interstate or foreign commerce authorizing operations under the former second proviso of Section 206(a)(1) of the Act, supported by Oklahoma certificate No. A–539, authorizing transportation of property between Edmond, Okla., and Oklahoma City, Okla., by way of Britton, Okla.

[SEAL] HAROLD D. MCCOY,
*Secretary.*

[F.R. Doc. 63–11241; Filed, Oct. 23, 1963; 8:47 a.m.]

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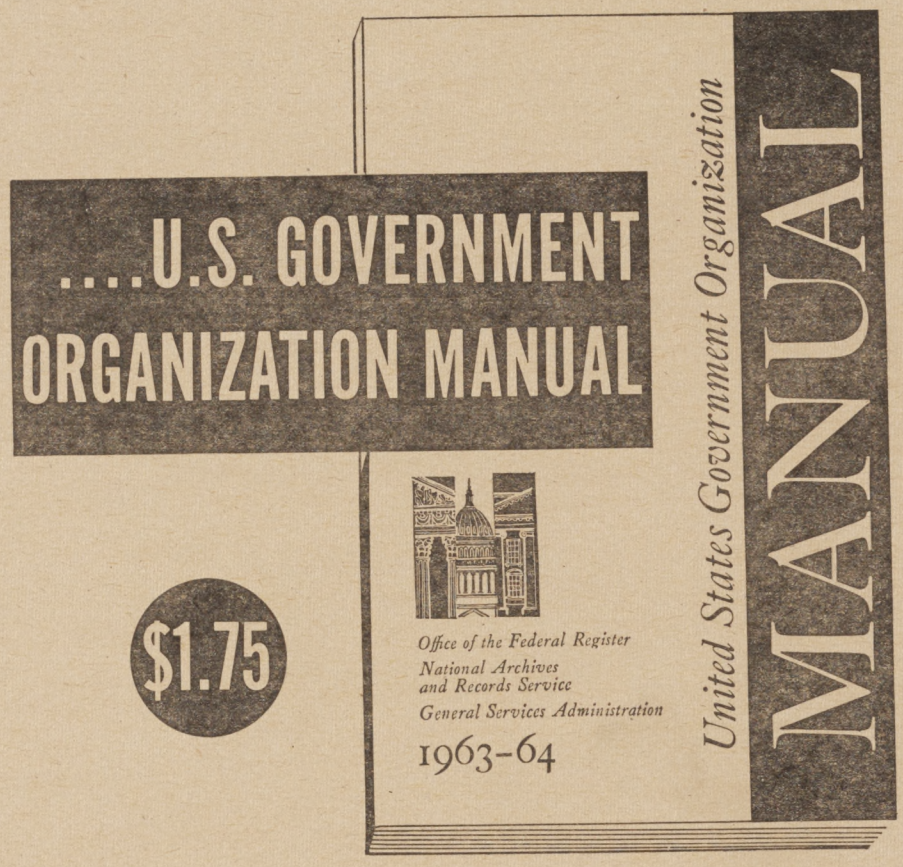


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