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List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1965, and specifies how they are affected.

Rules and Regulations

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following amendments to this subchapter are issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to the authority contained in Department of Defense Directive No. 4105.30, dated March 11, 1959 (24 F.R. 2260), as amended, and 10 U.S.C. 2202.

PART 1—GENERAL PROVISIONS

1. Sections 1.108(a), 1.109–1, 1.201–1, 1.201–18, 1.314, and 1.701 are revised to read as follows:

§ 1.108 Departmental procurement instructions and ASPR implementations.

(a) The Departments and their subordinate organizations shall not issue instructions, including directives, regulations, contract forms, contract clauses, policies, or procedures implementing this subchapter or covering the procurement of supplies or services or the administration of contracts for such supplies or services, unless permitted by one of the following and if consistent with paragraph (b) of this section:

(1) Internal procurement management instructions such as designations and delegations of authority, assignments of responsibilities; work flow procedures, and internal reporting requirements;

(2) Any special contract clause of a non-repetitive nature designed specifically to accomplish the peculiar requirements of an individual procurement, provided a clause relating to the subject matter is not set forth in this subchapter;

(3) A variation of any contract clause which is set forth in this subchapter but not for use verbatim: *Provided*, That such variation is not inconsistent with the intent, principle, and substance of the ASPR clause or related coverage of the subject matter;

(4) Interim instructions having an effective duration not exceeding 6 months (unless approved for a longer period by the ASPR Committee) essential to meet current operational needs or to effect greater efficiency in procurement management, including service tests of new techniques or methods of procurement, provided such instructions are submitted prior to issuance or immediately thereafter for consideration by the ASPR Committee;

(5) Procurement procedures specifically identified as being essential for carrying out the peculiar needs of specialized commodity areas when authorized by: for the Army, Director of Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics); for the Navy, Deputy Chief of Naval Material (Material and Facilities); for the Air Force, Director of Procurement Policy, Office of the Deputy Chief of Staff (Systems and Logistics); for the Defense Supply Agency, Executive Director, Procurement and Production, and notification is given to the ASPR Committee immediately upon such authorization for the purpose of determining whether such procedures should be included in this subchapter;

(6) Procurement instructions specifically identified as being essential for carrying out the peculiar needs of overseas commands when authorized by the cognizant unified commander and notification is given to the ASPR Committee immediately upon such authorization for the purpose of determining whether such instructions should be included in this subchapter;

(7) Material determined by the ASPR Committee to be inappropriate for ASPR coverage, but appropriate for inclusion in Departmental publications.

§ 1.109–1 Applicability.

The regulations of this subchapter are not intended to stifle the development of new techniques or methods of procurement. Innovations to attain desirable objectives will occasionally necessitate deviations from the regulations of this subchapter, and it is the responsibility of contracting officers to request such deviations whenever they are required in the best interest of the Government. For the purpose of this section, a deviation shall be considered to be any of the following:

(a) When a contract clause is set forth in this subchapter for use verbatim, use of a contract clause covering the same subject matter which varies from the ASPR coverage, or use of a collateral provision which modifies either the clause or its prescribed application constitutes a deviation; however, in the case of a purchase or contract of an offshore contracting activity with a foreign contractor made outside the United States, its possessions, or Puerto Rico, such contract clauses may (subject to the direction of authority above the level of the contracting officer) be modified if no change in intent, principle, or substance is made (offshore contracting activities shall keep the cognizant unified Commander advised of significant deviations effected under this paragraph);

(b) When a contract clause is set forth in this subchapter but not for use verbatim, use of a contract clause covering the same subject matter which is inconsistent with the intent, principle and substance of the ASPR clause or related coverage of the subject matter;

(c) Omission of any mandatory contract clause constitutes a deviation;

(d) When a Standard, DD, or other form is prescribed by this subchapter or a Department of Defense Directive, use of any other form for the same purpose constitutes a deviation;

(e) Alteration of a Standard, DD, or other form (other than Departmental forms), except as authorized by this subchapter or a Department of Defense Directive constitutes a deviation;

(f) When limitations are imposed in this subchapter or a Department of Defense Directive upon the use of a contract clause, form, procedure, type of contract, or any other procurement action, including but not limited to the making or amendment of a contract, or actions taken in connection with the solicitation of bids or proposals, award, administration or settlement of contracts, the imposition of lesser or greater limitations constitutes a deviation; or

(g) When a policy, procedure, method or practice of conducting procurement actions of any kind at any stage of the procurement process is covered by this subchapter, any policy, procedure, method, or practice which is inconsistent with that set forth constitutes a deviation.

§ 1.201–1 Change order.

"Change order" means a written order signed by the contracting officer, directing the contractor to make changes which the Changes clause of the contract authorizes the contracting officer to order without the consent of the contractor (see §§ 16.815–1 and 16.813 of this chapter).

§ 1.201–18 Supplemental agreement.

"Supplemental agreement" means any contract modification which is accomplished by mutual action of the parties (see § 16.815–2 of this chapter).

§ 1.314 Disputes and appeals.

(a) When a dispute cannot be settled by agreement and a decision under the Disputes clause is necessary, the contracting officer shall review the available facts pertinent to the dispute before making his final decision. When there is any doubt as to whether the issue in dispute is subject to the disputes procedure, a decision will be made pursuant to the Disputes clause. The disputes procedure shall not be invoked in cases when a dispute is clearly not subject to the procedure. The contracting officer shall obtain, from assigned legal and other advisors, such advice and assistance as is required to render a decision. Prior to issuing the decision, the contracting officer shall consider the neces-

sity for coordination with the contract administration office or the purchasing office, as appropriate. However, the decision must be that of the contracting officer.

(b) The final decision should include a statement of facts sufficient to enable the contractor to understand both the decision and the basis therefor. Normally, the decision should be in the form of a statement of the claim or other description of the nature of the dispute, with necessary references to pertinent contract provisions; a statement as to which of the facts relevant to the dispute the parties are in agreement and, as clearly as possible, the area of disagreement; and the contracting officer's statement of his decision and the basis therefor.

(c) The contracting officer (PCO, ACO, or TCO) shall decide all questions subject to the disputes procedures as to which he has the authority to act.

(d) When a final decision of the contracting officer involves a dispute that is subject to the procedure of a Disputes clause, or when there is doubt as to whether the decision is subject to such procedure, a paragraph substantially as follows, appropriately modified where other appeal Boards are authorized, shall be included in such decision.

This is the final decision of the Contracting Officer. Decisions on disputed questions of fact and on other questions that are subject to the procedure of the Disputes clause may be appealed in accordance with the provisions of the Disputes clause. If you decide to make such an appeal from this decision, written notice thereof (in triplicate) must be mailed or otherwise furnished to the Contracting Officer within 30 days from the date you receive this decision. Such notice should indicate that an appeal is intended and should reference this decision and identify the contract by number. The Armed Services Board of Contract Appeals is the authorized representative of the Secretary for hearing and determining such disputes. The rules of the Armed Services Board of Contract Appeals are set forth in the Armed Services Procurement Regulation, Appendix A, Part 2.

(e) After an appeal has been filed, contracting agencies are not precluded from further seeking agreement as to disposition of the controversy. However, such efforts to dispose of a controversy shall not be conducted pursuant to formal board actions or hearings, and shall not result in suspension of processing of an appeal, except as ordered or authorized by the Armed Services Board of Contract Appeals.

(f) In the event of an appeal, the amount determined to be payable in the decision of the contracting officer, less any portion previously paid, normally should be paid in advance of any decision by the Board without prejudice to the rights of either party or the appeal.

§ 1.701 Definitions.

The definitions of small business concerns are promulgated by the Small Business Administration. As used throughout this subpart, the following terms shall have the meanings set forth below. When a Military Department is in doubt as to the specific small business definition that should apply to a particular procurement, a written determination from the Small Business Administration regional office having jurisdiction over the geographical area in which the contracting officer is located will be requested for inclusion in the procurement file.

2. In § 1.704–3, paragraphs (a)(2) and (b)(3) are revised; paragraph (a) in § 1.705–2 is revised; and §§ 1.705–3, 1.705–4, 1.706–1, 1.706–2, and 1.706–3 are revised, to read as follows:

§ 1.704–3 Small business specialists.

(a) * * *

(2) Navy—Head of a Procuring Activity or the official in charge of an activity having purchase authority of $10,000 or more, or in charge of a contract administration activity;

* * * * *

(b) * * *

(3) Prior to issuance of solicitations or contract modifications for additional supplies or services in excess of $2,500, he shall determine that small business concerns will receive adequate consideration including initiation of set-asides (§ 1.706). This determination may be made jointly with the contracting officer or may be in the form of a recommendation to him. Disagreements between the small business specialist and the contracting officer shall be resolved by the appointing authority or his designee, whose decision shall be final (see § 1.308 (b)(4) as to the required record of contract actions).

* * * * *

§ 1.705–2 SBA representatives.

(a) SBA may assign representatives to any purchasing activity to carry out SBA policies and programs. The SBA representative shall be informed of the procurement mission of the activity and shall be furnished necessary facilities. In accordance with the procedures of the Department concerned, SBA shall obtain security clearances for each of its representatives. SBA representatives and employees shall comply with departmental directives concerning the conduct of Military Department procurement personnel.

* * * * *

§ 1.705–3 Access to procurement information.

Upon request, and subject to applicable security regulations, SBA representatives shall be given access to available or reasonably obtainable information, including technical data (including drawings and specifications), procurement history, and bidders lists. The SBA representative will be furnished such other available or reasonably obtainable information as may be required for the SBA referral program.

§ 1.705–4 Certificates of competency.

(a) SBA has statutory authority to certify the competency of any small business concern as to capacity and credit. "Capacity" means the overall ability of a prospective small business contractor to meet quality, quantity, and time requirements of a proposed contract and includes ability to perform, organization, experience, technical knowledge, skills, "know-how," technical equipment, and facilities or the ability to obtain them. Contracting officers shall accept SBA certificates of competency as conclusive of a prospective contractor's capacity (see §§ 1.903–1(b) and 1.903–2) and credit (see § 1.903–1(a)), unless the contracting officer has substantial doubt as to the concern's ability to perform, in which case the procedures in paragraph (f) of this section apply.

(b) In procurement where the highest competence obtainable or the best scientific approach is needed, as in certain negotiated procurement of research and development, highly complex equipment, or personal or professional services, the certificate of competency procedure is not applicable to the selection of the source offering the highest competence obtainable or best scientific approach. However, if a small business concern has been selected on the basis of the highest competence obtainable or best scientific approach and, prior to award, the contracting officer determines that the concern is not responsible because of lack of capacity or credit, the certificate of competency procedure is applicable.

(c) If a bid or proposal of a small business concern is to be rejected solely because the contracting officer has determined the concern to be non-responsible as to capacity or credit, the matter shall be referred to the SBA. This procedure applies only to proposed awards exceeding $2,500. For proposed awards exceeding $2,500, but not exceeding $10,000, its use is within the discretion of the contracting officer. A pre-award survey (see § 1.905) shall be made prior to a determination by a contracting officer that a small business concern is not responsible because of a lack of capacity or credit on a proposed award of more than $10,000. If a partial set-aside is involved and the bid of a small business concern on the unreserved portion is to be rejected for lack of capacity or credit and the same small business concern is entitled to consideration on the reserved portion of the set-aside if a certificate of competency is issued by the SBA, the entire quantity of the procurement (reserved and unreserved) for which that small business concern may be entitled, if competent, shall be referred to SBA and the referral papers so noted. The SBA may then certify the small business concern for the maximum quantity of the procurement for which it is eligible. The award shall be withheld until SBA action concerning issuance of a certificate of competency, or until 15 working days after the SBA is so notified, whichever is earlier, subject to the following:

(1) Under no circumstances will a referral be made to the SBA prior to a determination by the contracting officer that the bid or proposal of the small business concern is responsive.

(2) The activity performing the preaward survey shall furnish such survey to the procuring contracting officer. If

the procuring contracting officer determines, in accordance with § 1.904, that the small business concern is not responsible solely by reason of a lack of capacity or credit, he will refer the matter direct to the SBA, or he may notify the pre-award survey activity to refer the matter to the SBA, whichever is the more expeditious (e.g., where the surveying activity is substantially closer to the cognizant SBA office than the procuring office, it may be more expeditious to have the surveying activity refer the matter to the Small Business Administration).

(3) Upon making a determination to refer the matter to the SBA, the procuring contracting officer shall furnish to the SBA, or to the surveying activity, whichever is consistent with the action taken under subparagraph (2) of this paragraph, the data prescribed in paragraph (d) of this section. The activity that refers the matter to the SBA shall maintain close liaison with the SBA to assure compliance with paragraph (e) of this section. If such activity does not hear from the cognizant SBA Regional Office within 5 working days after the matter has been referred, the activity will contact the SBA Office to which the matter was referred to determine whether a certificate of competency is being processed. When, in accordance with subparagraph (2) of this paragraph, the procuring contracting officer has requested the pre-award survey activity to refer the matter to SBA, that activity shall keep the procuring contracting officer advised of significant developments, including the results of any inquiry to the SBA at the end of the 5 working day period, and any new or additional facts, learned from the SBA, that warrant reversal of the pre-award survey activity's negative finding.

(4) A referral need not be made to the SBA if the contracting officer certifies in writing that the award must be made without delay, includes such certificate and supporting documentation in the contract file, and promptly furnishes a copy to the SBA representative.

(5) A referral need not be made to the SBA if a contracting officer determines a small business concern nonresponsible for a reason other than lack of capacity or credit, i.e., if a concern does not satisfy the criteria of § 1.903–1 (d) or (e). If a contracting officer determines that a concern does not meet the requirements of § 1.903–1(c) as to a satisfactory record of performance, the matter must be referred to the SBA only if the unsatisfactory record of performance was due solely to inadequate capacity or credit. If a contracting officer has any doubts as to whether the unsatisfactory record of performance can reasonably be attributed to lack of capacity or credit, he shall forward the matter to the higher authority of his department identified in § 1.704–3(a), or his designee. The decision of such higher authority shall be final.

(6) A determination by a contracting officer that a small business concern is not responsible for reasons other than deficiencies in capacity or credit (e.g., lack of integrity, business ethics, or persistent failure to apply necessary tenacity or perseverance to do an acceptable job) must be supported by substantial evidence documented in the contract file.

(d) It is the policy of the Department of Defense to endeavor to reach agreement with the SBA regarding the lack of capacity or credit of a small business concern. To assist the SBA and to assure that it has the benefit of the views of the Military Department, the SBA shall be furnished three copies of the solicitation, one copy of the pertinent drawings and specifications, the pre-award survey findings, pertinent technical and financial information, and, if available, the abstract of bids.

(e) If the activity that refers the matter of a negative determination to the SBA learns that an SBA Regional Office is planning to issue a certificate of competency, or to refer the application therefor to Headquarters, SBA, it will inquire of the SBA whether there are new or additional facts in the case. If new or additional facts warrant, the negative determination as to capacity or credit should be reversed. Every effort should be made to resolve any differences between the SBA and the Military Department through a complete exchange of pre-award survey information. Personnel from a purchasing office or surveying activity who participated in a pre-award survey, or other personnel having cognizance of such survey shall be prepared to discuss with the SBA the basis for the pre-award findings in their area of cognizance or responsibility.

(f) If a certificate of competency is issued and the contracting officer has substantial doubt as to the ability of the contractor to perform, the case shall be forwarded through channels on an expedited basis with complete documentation as to the element of substantial doubt to, as appropriate, the Director of Procurement, Office of the Assistant Secretary of the Army (I&L); Director of Procurement, Office of the Assistant Secretary of the Navy (I&L); Director of Procurement Policy (AFSPP), Headquarters USAF; or the Executive Director, Procurement and Production, Headquarters DSA, for review. The contracting officer shall withhold procurement action pending receipt of instructions from departmental headquarters.

§ 1.706–1 General.

(a) Subject to any applicable preference for labor surplus area set-asides as provided in § 1.803(a)(2) and the following criteria, any individual procurement or class of procurements or an appropriate part thereof, shall be set aside for the exclusive participation of small business concerns when such action is determined by the Small Business Specialist and the contracting officer (upon the initiation of either) to be in the interest of (1) maintaining or mobilizing the Nation's full productive capacity, (2) war or national defense programs, or (3) assuring that a fair proportion of Government procurement is placed with small business concerns. If the Small Business Specialist is not available, the foregoing determination may be made by the contracting officer.

(b) In class set-asides, the Small Business Specialist may recommend that current and future procurements, or portions thereof, of selected items or services or groups of like items or services shall be set aside for exclusive small business participation. Such set-asides, when agreed to by the contracting officer, shall be known as class set-asides. Concurrence in a class set-aside shall not depend on the existence of a current procurement if future procurements can be clearly foreseen. Class set-asides shall apply only to the purchasing activity making the agreement, and shall not apply to an individual procurement for which small purchase procedures are to be used. A class set-aside agreement should specifically identify the items or services subject thereto, and provide for annual joint review by the Small Business Specialist and the contracting officer, to determine whether it should be withdrawn (see § 1.706–3). Any class of procurements proposed to be totally set aside shall satisfy the requirements of § 1.706–5. The set-aside determination for any class of procurements proposed to be partially set aside shall specify that it does not apply to any individual procurement not severable into two or more economic production runs or reasonable lots. Records of individual procurements under each class set-aside shall be maintained by individual purchasing activities and shall include the solicitation number and date, item or service, estimated dollar amount of the procurement, and estimated dollar amount of the set-aside. Such record shall be made available to the Small Business Specialist.

(c) None of the following is, in itself, sufficient cause for not making a set-aside:

(1) A large percentage of previous procurements of the item has been placed with small business concerns;

(2) The item is on an established planning list under the Industrial Readiness Planning Program, except that a total set-aside shall not be authorized when one or more large business Planned Emergency Producers of the item desire to participate in the procurement (but see § 1.706–6 as to partial set-asides);

(3) The item is on a Qualified Products List, except that a total set-aside shall not be authorized when the products of one or more large businesses are on the Qualified Products List unless it has been confirmed that none of such large businesses desires to participate in the procurement (but see § 1.706–6 as to partial set-asides).

(4) A period of less than 30 days from date of issuance of solicitations is prescribed for the submission of the bids or proposals;

(5) The procurement is classified;

(6) Small business concerns are considered to be receiving a fair proportion of total contracts for supplies or services;

(7) A class set-aside of the item or service concerned has been made at some other purchasing activity; or

(8) The item will be described by "brand name or equal."

(d) Procurement of supplies which were developed and financed in whole or in part by Canadian sources under the U.S.-Canadian Defense Development Sharing Program shall not be set aside for small business. Supplies covered by the Program shall be identified by the cognizant Military Department.

§ 1.706–2 Contract authority.

Contracts for total or partial set-asides entered into by conventional negotiation (see §§ 1.706–5(b) and 1.706–6(d)) or by "Small Business Restricted Advertising" (see § 1.706–5(b)) are negotiated procurements and shall cite as authority 10 U.S.C. 2304(a)(1) (see § 3.201–2(b)(2)).

§ 1.706–3 Review, withdrawal, or modification of set-asides or set-aside proposals.

(a) Prior to issuing solicitations each individual procurement governed by a class set-aside shall be carefully reviewed to ensure that any changes in the magnitude of anticipated requirements, specifications, delivery requirements, or competitive market conditions, since the initial approval of the class set-aside are not of such material nature as to result in the probable payment of an unreasonable price by the Government or in a change in small business capability. If, prior to award of a contract involving an individual or class set-aside, the contracting officer considers that procurement of the set-aside from a small business concern would be detrimental to the public interest (e.g., because of unreasonable price), he may withdraw a set-side determination by giving written notice to the Small Business Specialist (if one is assigned) stating the reasons for the withdrawal. Similarly, a class set-aside may be modified with the concurrence of the Small Business Specialist (if one is assigned) to withdraw one or more individual procurements.

(b) Upon a recommendation of the Small Business Specialist that an individual procurement or class of procurements, or portion thereof, be set aside, the contracting officer shall promptly either:

(1) Concur in the recommendation, or

(2) Disapprove, stating in writing his reasons for disapproval.

(c) If the contracting officer disagrees with the recommendation of the Small Business Specialist regarding a small business set-aside for an individual procurement or class of procurements or a portion thereof and so notifies the Small Business Specialist in writing, or if the Small Business Specialist disagrees with the contracting officer regarding a withdrawal or modification of a set-aside determination, the Small Business Specialist may appeal in writing to the appointing authority (see § 1.704–3(a)) for decision. A memorandum of the decision by the appointing authority shall be placd in the contract file. After receipt of a decision from the appointing authority, which shall be final, and if the decision approves the action of the contracting officer, the Small Business Specialist shall forward for information and management purposes complete documentation of the case to the appropriate Departmental Small Business Advisor as identified in § 1.704–2.

3. In § 1.706–5, paragraph (a) (2) and (3) is revised, and in paragraph (c), the clause heading and clause paragraph (a) are revised; § 1.706–6 is revised; in § 1.707–3, the introductory text of paragraph (b) is revised; and § 1.800 is revised, to read as follows:

§ 1.706–5 Total set-asides.

(a) * * *

(2) Every proposed procurement for construction, including maintenance and repairs, in excess of $2,500 and under $500,000 shall be considered individually as though the Small Business Specialist had initiated a set-aside request, and the procedures of § 1.706–3 shall apply.

(3) Proposed procurements of $500,000 or more for construction shall not be set aside for exclusive small business participation.

* * * * *

(c) * * *

NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (JULY 1965)

(a) *Restriction.* Bids or proposals under this procurement are solicited from small business concerns only and this procurement is to be awarded only to one or more small business concerns. This action is based on a determination by the Contracting Officer that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, in the interest of war or national defense programs, or in the interest of assuring that a fair proportion of Government procurement is placed with small business concerns. Bids or proposals received from firms which are not small business concerns shall be considered nonresponsive and shall be rejected.

* * * * *

§ 1.706–6 Partial set-asides.

(a) Subject to any applicable preference for labor surplus area set-asides as provided in § 1.803(a)(2), a portion of a procurement, not including construction, shall be set aside for exclusive small business participation (see § 1.706–1) where:

(1) The procurement is not appropriate for total set-aside pursuant to § 1.706–5;

(2) The procurement is severable into two or more economic production runs or reasonable lots (see § 1.804–1(a)(2)(i) through (v)); and

(3) One or more small business concerns are expected to have the technical competency and productive capacity to furnish a severable portion of the procurement at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that only two concerns (one large and one small) with technical competency and productive capacity will respond with bids or proposals. Before reaching this conclusion, the contracting officer shall consult with the small business specialist and may make advanced inquiries to determine the number of interested concerns. Any deviation from this partial set-aside procedure must be approved by the Head of the Procuring Activity on a case-by-case basis.

Similarly, a class of procurements, not including construction, may be partially set aside in accordance with §1.706–1(b).

(b) Where a portion of a procurement is to be set aside for small business pursuant to paragraph (a) of this section, the procurement shall be divided into a set-aside portion and a non-set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of small business capacity. Delivery and other terms applicable to the set-aside portion of an item and those applicable to the non-set-aside portion of that item shall be comparable.

(c) In advertised procurements involving partial set-asides for small business, each invitation for bids shall contain substantially the following notice. The applicable size standard shall be set forth in the Schedule. In negotiated procurements, the notice shall be appropriately modified for use with request for proposals.

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE (JULY 1965)

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more small business concerns. Negotiations for award of this set-aside portion will be conducted only with responsible small business concerns who have submitted responsive bids on the non-set-aside portion at a unit price within 120 percent of the highest unit price at which an award is made on the non-set-aside portion. Negotiations shall be conducted with such small business concerns in the following order of priority:

Group 1. Small business concerns which are also persistent labor surplus area concerns.

Group 2. Small business concerns which are also substantial labor surplus area concerns.

Group 3. Small business concerns which are not labor surplus area concerns.

Within each of the above groups, negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which are considered in evaluating bids on the non-set-aside portion, except where a responsive bid has been submitted on the non-set-aside portion at a unit price which when so adjusted is lower than the adjusted highest unit price awarded on the non-set-aside portion but could not be accepted because of quantity limitations or other consideration (such as the bidder's responsibility). In the latter case if the quantity limitation or other considerations do not preclude consideration of the unit price of such unaccepted bid at the time of negotiation for the set-aside portion, a quantity of the set-aside portion equal to the quantity of such unaccepted bid shall be offered to eligible concerns in their order of priority at the adjusted unit price of such unaccepted bid. If no eligible bidder will take the entire quantity so offered at the adjusted unit price of the unaccepted bid, then all eligible concerns in their order of priority shall be offered any lesser portion

at the same price. (In the event more than one such unaccepted bid is involved, the same procedure shall be applied successively to each such bid on negotiation for the set-aside portion.) Subject to the conditions set forth below any remaining quantity of the set-aside portion shall be offered to eligible concerns in their order of priority at the adjusted highest unit price awarded on the non-set-aside portion. If such an unaccepted bid is submitted by a concern eligible to participate in the set-aside, such concern must accept a quantity of the set-aside portion equal to the quantity of the unaccepted bid at the adjusted unit price of the unaccepted bid before any portion of the set-aside may be awarded to that concern at a higher price. If such an unaccepted bid is submitted by a concern not eligible to participate in the set-aside, a quantity of the set-aside portion equal to the unaccepted bid must be awarded at the adjusted unit price of such unaccepted bid before any portion of the set-aside is awarded to any eligible concern at a higher price. The Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion. The partial set-aside of this procurement for small business concerns is based on a determination by the Contracting Officer that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, or in the interest of war or national defense programs, or in the interest of assuring that a fair portion of Government procurement is placed with small business concerns.

(b) *Definitions.* (1) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (Code of Federal Regulations, Title 13, sec. 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the preformance of the contract end items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(2) A "labor surplus area" is a geographical area which is:

(i) classified by the Department of Labor as an "Area of Substantial Labor Surplus" or as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and listed as such by that Department in conjunction with its publication "Area Labor Market Trends"; or

(ii) not classified as in (i) above, but which is individually certified as an area of persistent or substantial labor surplus by the Department of Labor at the request of any prospective contractor.

(3) Labor surplus area concern includes—

(i) persistent labor surplus area concerns which agree to perform or cause to be performed any contracts awarded to them as labor surplus area concerns substantially in "Areas of Substantial and Persistent Labor Surplus" (also called "Areas of Substantial and Persistent Unemployment"); and

(ii) substantial labor surplus area concerns which agree to perform or cause to be performed any contracts awarded to them as labor surplus area concerns substantially in "Areas of Substantial Labor Surplus."

A concern shall be deemed to perform a contract substantially in "Areas of Substantial and Persistent Labor Surplus" (also called "Areas of Substantial and Persistent Unemployment") if the cost that it incurs on account of manufacturing or production (by itself or its first-tier subcontractors) in such areas amount to more than 50 percent of the contract price. A concern shall be deemed to perform a contract substantially in "Areas of Substantial Labor Surplus" if the costs that it incurs on account of manufacturing or production (by itself or its first-tier subcontractors) in such areas or in "Areas of Substantial or Persistent Labor Surplus" (also called "Areas of Substantial and Persistent Unemployment") amount to more than 50 percent of the contract price.

(4) "Unit price" shall include evaluation factors added for the rent-free use of Government property.

(c) *Identification of areas of performance.* Each bidder desiring to be considered for award as a small business labor surplus area concern on the set-aside portion of this procurement shall identify in his bid 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 proposes to perform: *Provided*, That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Agreement.* The bidder agrees that, if awarded a contract as a small business persistent labor surplus area concern under the set-aside portion of this procurement, 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; and that if awarded a contract as a small business substantial labor surplus area concern under the set-aside portion of this procurement, 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.

(d)(1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those bidders or offerors who have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest award made or to be made on the non-set-aside portion (taking into account the evaluation factors for rent-free use of Government property pursuant to Subpart E, Part 13 of this chapter) and who are determined to be responsible prospective contractors for the set-aside portion of the procurement. Negotiations shall be conducted with small business concerns in the order of priority as indicated in the foregoing notices: *Provided*, That, where equal low bids are received on the non-set-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedure of § 2.407-6 of this chapter) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion will be awarded at the highest unit price awarded or to be awarded for the non-set-aside portion. A bidder or offeror entitled to receive the award for quantities of an item under the non-set-aside portion and who accepts the award of additional quantities under the set-aside portion shall not be requested to accept a lower price because of the increased quantities of the award, nor shall negotiation be conducted with a view to obtaining such a lower price based solely upon receipt of award of both portions of the procurement. This does not prevent acceptance by the contracting officer of voluntary reductions in price from the low eligible offeror prior to award, acceptance of voluntary refunds (see § 1.312), or the change of prices after award by negotiation of a contract modification.

(2) When the award price for the non-set-aside portion has been determined and where an award will be made to a small business concern and the same small business concern is entitled to receive the set-aside portion of a solicitation, the set-aside portion may be added to the basic contract by supplemental agreement. The supplemental agreement shall include the Examination of Records clause, applicable to the set-aside portion only.

§ 1.707-3 Required clauses.

* * * * *

(b) The "Small Business Subcontracting Program" clause below shall be included in all contracts (except maintenance, repair and construction contracts) which may exceed $500,000, which contain the clause required by paragraph (a) of this section and which, in the opinion of the contracting officer, offer substantial subcontracting possibilities. Prime contractors who are to be awarded contracts that do not exceed $500,000 but which, in the opinion of the contracting officer, offer substantial subcontracting possibilities, shall be urged to accept the clause.

* * * * *

§ 1.800 Scope of subpart.

This subpart sets forth Department of Defense policy and procedures with respect to aiding areas of persistent or substantial labor surplus, hereinafter referred to as labor surplus areas, in the United States, its possessions, and Puerto Rico. This subpart implements Defense Manpower Policy No. 4 (Revised), June 6, 1960 (32A CFR ch. 1). Defense Manpower Policy No. 4 states the policy of the Government to encourage the placing of contracts and facilities in areas of persistent or substantial labor surplus, and to assist such areas in making the best use of their available resources.

§ 1.801-1 [Amended]

4. In § 1.801-1, the sentence preceding "Example A" is amended, changing the phrase "(by itself or its subcontractors)" to read "(by itself or its first tier subcontractors)."

5. Sections 1.802 and 1.804-1(a) are revised, and in § 1.804-2, the introductory text of paragraph (b) and all of

paragraph (c) are revised, and paragraph (d) is revoked, to read as follows:

§ 1.802 General policy.

Except as provided in § 1.806 with respect to depressed industries, it is the policy of the Department of Defense to aid labor surplus areas by placing contracts with labor surplus area concerns, to the extent consistent with procurement objectives and where such contracts can be awarded at prices no higher than those obtainable from other concerns, and by encouraging prime contractors to place subcontracts with concerns which will perform substantially in labor surplus areas. In carrying out this policy, to accommodate the small business policies of Subpart G of this part, preference shall be given in the following order of priority to (a) persistent labor surplus area concerns which are also small business concerns, (b) other persistent labor surplus area concerns, (c) substantial labor surplus areas concerns which are also small business concerns, (d) other substantial labor surplus area concerns, and (e) small business concerns which are not labor surplus area concerns. But in no case will price differentials be paid for the purpose of carrying out this policy. Heads of Procuring Activities and Heads of Field Purchasing and Contract Administration Activities are responsible for the effective implementation of the Labor Surplus Area Program within their respective activities. Responsibility for administration of the program may be assigned to small business specialists appointed pursuant to § 1.704–3.

§ 1.804–1 General.

(a)(1) In accordance with the policy set forth in §§ 1.802 and 1.803, a portion of each procurement shall be set aside for labor surplus area concerns if:

(i) The procurement is severable into two or more economic production runs or reasonable lots; and

(ii) One or more labor surplus area concerns are expected to qualify as labor surplus area concerns and to have the technical competency and productive capacity to furnish a severable portion of the procurement at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that bids or proposals will be received from only two concerns with technical competency and productive capacity (one concern which will not qualify as a labor surplus area concern and one concern which will qualify as a labor surplus area concern). Before reaching this conclusion, the contracting officer shall consult with the labor surplus area specialist and may make advance inquiries to determine the number and expected classification of interested concerns. Any deviation from this partial set-aside prohibition must be approved by the Head of the Procuring Activity on a case-by-case basis.

(2) In determining whether a proposed procurement is susceptible to division into two or more economic production runs or reasonable lots, consideration should be given to the following factors and any others deemed appropriate:

(i) Price and procurement history of the items,

(ii) Open industry capacity,

(iii) Startup cost including special tooling requirements,

(iv) Delivery schedule, and

(v) Nature of item and quantity being procured.

Before a portion or portions, constituting more than 50 percent of the total requirement may be set aside, a determination must be made that there is a reasonable expectation the action proposed will not result in the payment of a price differential. The determination and supporting information will be made part of the contract file.

(3) In furtherance of the policy to assure that a fair proportion of procurements is placed with small business concerns, each labor surplus area set-aside shall provide that, in addition to labor surplus area concerns, small business concerns not performing in such areas are also eligible for participation in the set-aside for such quantities thereof as are not awarded to labor surplus area concerns. In this respect, see the provisions of § 1.804–2(b) for notice to bidders or offerors, and § 1.804–2(c) for conduct of set-aside negotiations.

* * * * *

§ 1.804–2 Set-aside procedures.

* * * * *

(b) In advertised procurements involving set-asides pursuant to this subpart, each invitation for bids shall contain substantially the following notice. In negotiated procurements, the notice shall be appropriately modified for use with requests for proposals. The notice shall be made a part of each contract under the set-aside portion of the procurement.

* * * * *

(c)(1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those bidders or offerors who have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest award made or to be made on the non-set-aside portion (taking into account the evaluation factors for rent-free use of Government property pursuant to Subpart E, Part 13 of this chapter) and who are determined to be responsible prospective contractors for the set-aside portion of the procurement. Negotiations shall be conducted in the order of priority indicated in the foregoing notices: *Provided*, That, where equal low bids are received on the non-set-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedures of § 2.407–6 of this chapter) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion shall be awarded at the highest unit price awarded or to be awarded for the non-set-aside portion. A bidder or offeror entitled to receive the award for quantities of an item under the non-set-aside portion and who accepts the award of additional quantities under the set-aside portion shall not be requested to accept a lower price because of the increased quantities of the award, nor shall negotiation be conducted with a view to obtaining such a lower price based solely upon receipt of award of both portions of the procurement. This does not prevent acceptance by the contracting officer of voluntary reductions in price prior to award, acceptance of refunds, or the change of prices after award by negotiation of a contract modification. If the entire set-aside portion cannot be awarded by the method described herein, any unawarded portion may be procured by advertising or negotiations, as appropriate, in accordance with existing regulations (see §§ 3.201–2(b)(1) and 3.210–3 of this chapter as to negotiation).

(2) When the award price for a non-set-aside portion has been determined and where an award will be made to a labor surplus area concern and the same labor surplus area concern is entitled to receive a set-aside portion of the solicitation, the set-aside portion may be added to the basic contract by supplemental agreement. The supplemental agreement shall include the Examination of Records clause, applicable to the set-aside portion only.

(d) [Revoked]

6. Sections 1.907, 1.1002–6 (f) and (g)(1), 1.1004(b), 1.1005–2(b), 1.1006–2, 1.1107–2(b), and 1.1604(f)(1) are revised to read as follows:

§ 1.907 Disclosure of pre-award data.

Data, including information obtained from a pre-award survey, accumulated for purposes of determining the responsibility of a prospective contractor shall not be released outside the Government and shall not be made available for inspection by individuals, firms, or trade organizations. Such data may be disclosed to, or summarized for, other elements within the Government on their request, and shall be made available to Department of Defense procurement personnel upon request in accordance with § 1.905–1. Prior to making a determination of responsibility, such data may be discussed with the prospective contractor as determined necessary by the purchasing office. After an award, the findings of the pre-award survey may be discussed by the contracting officer with the company surveyed as provided in §§ 2.408 and 3.508 of this chapter, or if appropriate, by the head of the contract administration office or his designee.

§ 1.1002–6 Paid advertisements in newspapers and trade journals.

* * * * *

(f) *Request for authority to place advertisement.* (1) Special or general au-

thority to place advertisements in newspapers must be secured in advance by the use of DD Form 1535, Request/Approval for Authority to Advertise (see § 16.504 of this chapter). Special authority permits the publication of a given advertisment of a specified number of times in a designated newspaper or newspapers. General authority permits the publication during a fiscal year, as designated, of such advertisements for bids as may be required by the duties of officers engaged in making frequent purchases or contracts.

(2) Requests for authority to place advertisements shall be submitted through channels to the Secretary or his designee.

(3) Consideration shall be given to an equitable distribution of advertising to suitable publications.

(g) *Preparation of advertisement.* (1) Except as provided in subparagraph (2) of this paragraph, all advertisements shall be set solid, without paragraphing. A sample is shown on Standard Form 1143 (Advertising Order) (see § 16.504 of this chapter).

* * * * *

§ 1.1004 Disclosure of information prior to award.

* * * * *

(b) Maximum information may be made available to the public except (1) advance information on proposed plans regarding procurements, which information would provide undue or discriminatory advantage to private or personal interests, (2) information which is received in confidence, (3) information which requires protection in the public interest or (4) information as to referrals (for technical review, contracting authority, or other reasons) or recommendations made with respect thereto in connection with any given procurement. This policy applies to all Government personnel who participate directly or indirectly in any stage of the procurement cycle (see §§ 1.1006, 2.211, 3.507, 3.508, and 3.804 of this chapter). Information submitted by the bidder or offeror in confidence, and information which might jeopardize, the position of the Government or any prospective contractor shall not be released, except as provided in §§ 1.1006 and 3.508 of this chapter. (See § 1.705–3 as to information to be released to the SBA, and § 1.1007 for procedures for publicizing long-range procurement estimates.)

§ 1.1005–2 Other publication award information.

* * * * *

(b) For awards after procurement by negotiation, include the information contained in the notice prescribed by § 3.508(b)(1) of this chapter and where the award was made after competitive negotiation (either price or design competition), include a statement to this effect and state in general terms the basis for selection.

§ 1.1006–2 General public.

Requests from the general public, including suppliers, for specific information such as the number or types of supplies purchased and prices paid during extended periods of time, will generally be denied. The inquirer shall be informed that it is not the Department of Defense policy to compile and disseminate such information; but see §§ 2.408 and 3.508 of this chapter.

§ 1.1107–2 Contract provisions.

* * * * *

(b) When qualified products are to be procured as components of end items, insert the following provision in the solicitation:

QUALIFIED PRODUCTS—COMPONENTS (AUGUST 1965)

When any of the end items which are to be supplied to the Government by the Contractor will contain one or more components which are required to be Qualified Products, such components shall have been tested and have qualified for inclusion in a Qualified Products List identified below (whether or not actually included in the List) before the award of any subcontract by the Contractor for such components, or, in the event the Contractor plans to manufacture such components himself, shall have been so tested and have so qualified before the Contractor begins to manufacture such components for performance of this Contract (not before manufacture of the prototype, preproduction model, or first article, for qualification testing). Unless required for interchangeability or compatibility, the Contractor shall not cite brand names from any Qualified Products List in any subcontract solicitation, but shall refer to the pertinent military specification so that optimum competition may be obtained. Delay resulting from the Contractor awaiting qualification approval by the Government of a component shall not constitute excusable delay when a previously qualified component could have been procured in time to meet the end item delivery schedule.

Contracting officers shall, following the above provision, identify each Qualified Products List involved and give the name and address of the office, as identified in the specification, with which manufacturers should communicate.

§ 1.1604 Processing novation agreements and change of name agreements.

* * * * *

(f) * * *

(1) The original signed copy to the Finance Center listed below which services the Disbursing Office designated in the contract to make payment:

Army—
Commanding General
Finance Center, U.S. Army
Processing & Disposition Branch
Retained Accounts Division
Indianapolis, Ind. 46249

Navy—
Commanding Officer
U.S. Navy Finance Center (SMV)
Cleveland, Ohio 44114

Air Force—
Air Force Accounting & Finance Center
3800 York Street
Denver, Colo. 80205

* * * * *

7. New Subpart S is added to this part, as follows:

Subpart S—First Article Approval

Sec.
1.1900 Scope of subpart.
1.1901 Definitions.
1.1902 General.
1.1903 Fixed-price type contracts.
1.1904 Cost reimbursement type contracts.
1.1905 Government administration procedures.
1.1906 Contract clauses.

AUTHORITY: The provisions of this Subpart S issued under sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 1.1900 Scope of subpart.

This subpart sets forth the policy, implementing instructions, and contract clauses with respect to first article testing and approval.

§ 1.1901 Definitions.

As used in this subpart:

(a) "First article" includes preproduction models, initial production samples, test samples, first lots, pilot models, and pilot lots; and

(b) "Approval" involves testing and evaluating the first article for conformance with specified contract requirements before or in the initial stage of production under a contract.

§ 1.1902 General.

(a) A requirement for first article approval is designed to assure that the contractor can furnish a product that is satisfactory for its intended use and, therefore, minimizes risks for both the contractor and the Government. In determining whether first article approval is to be required, consideration shall be given to increased cost and time of delivery by reason of the test, the risk to the Government of foregoing such tests, and the availability to the Government of other less costly methods of achieving the desired quality. First article approval tests are particularly appropriate when:

(1) The interest of the Government requires assurance that a product is satisfactory for its intended use when the product—

(i) Has not been previously furnished by the contractor to the Government; or

(ii) Has been previously furnished by the contractor to the Government but there have been subsequent changes in processes or specifications, or production has been discontinued for an extended period of time; or

(iii) Is described by a performance specification; or

(2) It is essential to have an approved first article to serve as a manufacturing standard.

(b) Except in unusual procurements, first article approval tests shall not be required in contracts:

(1) For research or development;

(2) Where the specifications require qualification of the produc prior to award, i.e., where a Qualified Products List has been established for the product; or

(3) For supplies normally sold in the commercial market.

(c) Pending approval of the first article, acquisition of materials or com-

ponents, or commencement of production is at the sole risk of the contractor.

§ 1.1903 Fixed-price type contracts.

(a) The solicitation for a fixed-price type contract which is to contain a requirement for first article approval shall inform bidders or offerors that where supplies identical or similar to those called for have been previously furnished by the bidder or offeror and have been accepted by the Government, the requirement for first article approval may be waived by the Government. To permit proper evaluation of bids or offers where one or more bidders or offerors may be eligible to have first article approval tests waived, the solicitation shall permit the submission of alternative bids or offers—one including first article approval tests and the other excluding such tests; shall state clearly the relationship of the first article to the contract quantity (see paragraph (e) of the contract clauses in § 1.1906), and shall provide for:

(1) Delivery schedules for the production quantity in accordance with § 1.305; as appropriate, the delivery schedules—

(i) May be the same whether or not first article approval is waived, or

(ii) May provide for a shorter delivery schedule where the first article approval is waived and earlier delivery is in the interest of the Government: *Provided*, That in the latter case any difference in delivery schedules resulting from a waiver of first article approval shall not be a factor in evaluation for award. The delivery schedule based on first article approval shall provide sufficient time for acquisition of material and production after notification of first article approval. The delivery schedule for the first article itself shall be set forth in the first article approval clause; and

(2) The submission of the contract numbers, if any, under which identical or similar supplies were previously accepted from the bidder or offeror by the Government.

(b) Where it is known that first article approval will be required of all bidders or offerors, the provisions of paragraph (a) of this section will not apply.

(c) The solicitation shall also:

(1) State whether an approved first article shall serve as a manufacturing standard; and

(2) Include the applicable clause set forth in § 1.1906, designating whether the contractor or the Government is responsible for first article approval testing—

(i) When the contractor is responsible for such testing, the solicitation and resulting contract shall contain or reference:

(*a*) The performance or other characteristics which the first article must meet, and

(*b*) The detailed technical requirements for first article approval tests, including the necessary data to be submitted to the Government in the first article approval test report.

(ii) When the Government is responsible for such testing, the solicitation and resulting contract shall contain or reference:

(*a*) The performance or other characteristics which the first article must meet in order to be approved, and

(*b*) The test to which the first article will be subjected.

§ 1.1904 Cost-reimbursement type contracts.

When first article approval tests are required in cost-reimbursement type contracts, the applicable clause in § 1.1906, appropriately modified, shall be included.

§ 1.1905 Government administration procedures.

(a) Immediately upon shipment by the contractor of a first article or first article approval test report to the designation specified in the contract, the contract administration office shall:

(1) Advise the consignee of the contractual requirements for first article approval; and

(2) Request from the consignee advice as to the date that testing or evaluation will be completed.

(b) The Government laboratory or other activity responsible for first article approval shall advise the purchasing office, in sufficient time to permit notification to the contractor as required by the contract, whether the first article should be approved, conditionally approved, or disapproved. Upon such notification, the contracting officer at the purchasing office shall advise the contractor of his approval, conditional approval, or disapproval, with simultaneous notification to the contract administration office. Changes in the drawings, designs, or specifications determined by the Government to be necessary shall be accomplished pursuant to the Changes clause and not by the notification of approval, conditional approval, or disapproval.

§ 1.1906 Contract clauses.

(a) In accordance with § 1.1902, insert the following clause when the contractor is responsible for conducting first article approval tests:

FIRST ARTICLE APPROVAL—CONTRACTOR TESTING (AUGUST 1965)

(a) The first article is _____ unit(s) of Lot/Item _____ which shall be tested in accordance with the provisions contained or referenced in this contract. At least _____ (—) calendar days prior to the beginning of first article approval tests, the Contractor shall furnish written notice to the Contracting Officer of the time and location of the testing so that the Government may witness such testing if it so elects.

(b) Within _____ (—) calendar days from the date of this contract, the first article approval test report shall be forwarded to _____

(Set forth address of office to receive the report)

marked "FIRST ARTICLE: Contract No. _____, Lot/Item No. _____". The Contracting Officer shall, by written notice to the Contractor within _____ (—) calendar days after receipt of such test report by the Government, approve, conditionally approve, or disapprove such first article. The notice of approval or conditional approval shall not relieve the Contarctor from complying with all requirements of the specifications and all other terms and conditions of this contract. A notice of conditional approval shall state any further action required of the Contractor. A notice of disapproval shall cite reasons therefor.

(c) If the first article is disapproved by the Government, the Contractor may be required, at the option of the Government, to repeat any or all of the first article approval tests. After each notification by the Government of the requirement for additional tests, the Contractor shall at no additional cost to the Government make any necessary changes, modifications, or repairs to the first article or select another first article for testing. Thereafter, the Contractor shall perform the required additional approval tests and deliver another report to the Government under the terms and conditions and within the time specified by the Government. The Government shall take action on this report within the time limit specified in (b) above. All costs related to additional approval tests shall be borne by the Contractor. The Government reserves the right to require an equitable reduction of contract price for any extension of the delivery schedule or for any additional costs to the Government related to additional approval tests.

(d) If the Contractor fails to deliver any first article approval test report within the time or times specified, or if the Contracting Officer disapproves any first article, the Contractor shall be deemed to have failed to make delivery within the meaning of the "Default" clause of this contract, and this contract shall be subject to termination for default: *Provided*, That failure of the Government in such an event to terminate this contract for default shall not relieve the Contractor of his responsibility to meet the delivery schedule for production quantities.

(e) Where the approved first article is not consumed or destroyed in testing, and unless otherwise provided in this contract, the first article may be delivered as part of the contract quantity if it meets all terms and conditions of the contract for acceptance.

(f) In the event the Contracting Officer does not approve, conditionally approve, or disapprove the first article within the time specified in (b) or (c) above, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor thereby, and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by such delay, in accordance with the procedures provided in the "Changes" clause. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(g) Prior to approval of the first article, the acquisition of materials or components for, or the commencement of production of, the balance of the contract quantity shall be at the sole risk of the Contractor; and costs incurred on account thereof shall not, if this contract contains a clause entitled "Progress Payments," be considered allocable to this contract until such approval is granted.

At the option of the contracting officer, the following paragraph may be added to the clause:

(h) The first article offered must be manufactured at the facilities in which that item is to be produced under the contract, or if the first article is a component not manufactured by the Contractor, such component must be manufactured at the facilities in which the component is to be produced for the contract. A certification by the Contractor to this effect must accompany each first article which is offered.

(b) In accordance with § 1.1902, insert the following clause when the Govern-

ment is responsible for conducting first article approval tests:

FIRST ARTICLE APPROVAL—GOVERNMENT TESTING (AUGUST 1965)

(a) The first article is ------ unit(s) of Lot/Item ------ and shall, within ------ (—) calendar days from the date of this contract, be delivered to the Government at ---------- for first (Set forth consignee and address.) article approval tests. The documentation accompanying the first article shall contain this contract number and the Lot/Item identification. The performance or other characteristics which the first article must meet, and the tests to which it will be subjected, are contained or referenced in this contract.

(b) The Contracting Officer shall, by written notice to the Contractor within ------ (—) calendar days after receipt of the first article by the Government, approve, conditionally approve, or disapprove the first article. The notice of approval or conditional approval shall not relieve the Contractor from complying with all requirements of the specifications and all other terms and conditions of this contract. A notice of conditional approval shall state any further action required of the Contractor. A notice of disapproval shall cite reasons therefor.

(c) If the first article is disapproved by the Government, the Contractor may be required, at the option of the Government, to submit an additional first article for first article approval test. After each notification by the Government to submit an additional first article, the Contractor shall at no additional cost to the Government make any necessary changes, modifications, or repairs to the first article, or select another first article for testing. Such additional first article shall be furnished to the Government under the terms and conditions and within the time specified in the notification. The Government shall take action on this first article within the time limit specified in (b) above. The costs of additional first article approval tests and all costs related to such tests shall be borne by the Contractor. The Government reserves the right to require an equitable adjustment of the contract price for any extension of the delivery schedule necessitated by additional first article approval tests.

(d) If the Contractor fails to deliver any first article for test within the time or times specified, or if the Contracting Officer disapproves any first article, the Contractor shall be deemed to have failed to make delivery within the meaning of the "Default" clause of this contract, and this contract shall be subject to termination for default: *Provided*, That failure of the Government in such an event to terminate this contract for default shall not relieve the Contractor of his responsibility to meet the delivery schedule for production quantities.

(e) Where the first article is not consumed or destroyed in testing, and unless otherwise provided in this contract, the Contractor (i) may deliver an approved first article as a part of the contract quantity if it meets all terms and conditions of this contract for acceptance, and (ii) shall be responsible for removal and disposition of any first article from the Government test site at his expense.

(f) In the event the Contracting Officer does not approve, conditionally approve, or disapprove the first article within the time specified in (b) or (c) above, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor thereby, and shall equitably adjust the delivery or performance dates, or the contract price, or both, and any other contractual provision affected by such delay, in accordance with the procedures provided in the "Changes" clause. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(g) The Contractor shall be responsible for spare parts support and repair of the first article during any first article approval test.

(h) Prior to approval of the first article, the acquisition of materials or components for, or the commencement of production of, the balance of the contract quantity shall be at the sole risk of the Contractor; and costs incurred on account thereof shall not, if this contract contains a clause entitled "Progress Payments," be considered allocable to this contract until such approval is granted.

At the option of the contracting officer, the following paragraph may be added to the clause:

(i) The first article offered must be manufactured at the facilities in which that item is to be produced under the contract, or if the first article is a component not manufactured by the Contractor, such component must be manufactured at the facilities in which the component is to be produced for the contract. A certification by the Contractor to this effect must accompany each first article which is offered.

PART 2—PROCUREMENT BY FORMAL ADVERTISING

8. In § 2.201(a), subparagraphs (22) and (25) are revised; subparagraph (27) is revoked; subparagraphs (35), (36), and (37) are revised; and subparagraph (38) is revoked. In § 2.201(b), subparagraph (14) is revised and subparagraph (15) is revoked, as follows:

§ 2.201 Preparation of invitation for bids.

* * * * *

(a) * * *

(22) Unless contained elsewhere in the invitation, a statement as follows:

In the event of an inconsistency between provisions of this Invitation for Bids, the inconsistency shall be resolved by giving precedence in the following order: (a) the Schedule; (b) Bidding Instructions, Terms and Conditions of the Invitation for Bids; (c) General Provisions; (d) other provisions of the contract, where incorporated by reference or otherwise; and (e) the Specifications (AUGUST 1965).

* * * * *

(25) Pending revision of the invitation for bids forms, a requirement for inclusion of "county" as part of bidder's address will be inserted.

* * * * *

(27) [Revoked]

* * * * *

(35) A statement as follows:

This procurement is not a set aside for labor surplus area concerns. However, the bidder's status as such a concern may affect entitlement to award in the case of tie bids, or in the evaluation of bids in accordance with the Buy American clause of this solicitation. In order to have his entitlement to a preference determined on the occurrence of those events, the bidder must identify below the areas in which the costs that he will incur on account of manufacturing or production (by himself or his first-tier subcontractors) amount to more than 50 percent of the contract price:

Failure to list the proposed areas of performance as specified above will preclude consideration of such bidder as a labor surplus area concern.

The bidder agrees that if, as a labor surplus area concern, he is awarded a contract for which he woud not have qualified in the absenec of such a classification, he will perform or cause to be performed the contract in accordance with the circumstances justifying the preference.

(36) A statement that prospective bidders may submit inquiries by writing or calling (collect calls not accepted) Mr. (insert name and address; telephone area code, number, and extension).

(37) When using Standard Form 33, on the face thereof or on a cover sheet, a brief description of the items being procured, unless the contracting officer considers such to be unnecessary or impractical.

(38) [Revoked]

(b) * * *

(14) Any requirement for first article approval (see Subpart S, Part 1 of this chapter).

(15) [Revoked]

* * * * *

9. Sections 2.207, 2.208, 2.209, and 2.210 are revised; new § 2.211 is added; and §§ 2.403 and 2.503–1 (b)(2) and (e) are revised, as follows:

§ 2.207 Pre-bid conference.

The pre-bid conference is a procedure which may be used, generally in complex procurements, as a means of briefing prospective bidders (e.g., where procurements which were formerly negotiated are to be formally advertised) and explaining complicated specifications and requirements to them as early as possible after the invitation has been issued and before the bids are opened. Since the invitations for bids itself must be sufficiently clear and complete to insure that bidders are bidding on the same basis, the need for this procedure should be rare. The pre-bid conference shall never be used as a substitute for amending a defective or ambiguous invitation, and may be used only when approved at a level higher than the contracting officer. It shall be conducted in accordance with the procedure prescribed in § 3.504 of this chapter.

§ 2.208 Amendment of invitation for bids.

(a) If after issuance of an invitation for bids, but before the time for bid opening, it becomes necessary to make changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous invitation, such changes shall be accomplished by issuance of an amendment to the invitation for bids, using DD Form 1260 (see § 16.101 of this chapter), whether or not a pre-bid conference is held. The amendment shall be sent to everyone to whom invitations have been

furnished and shall be displayed in the bid room.

(b) Before issuing an amendment to an invitation for bids, the period of time remaining until bid opening and the need for extending this period by postponing the time set for opening must be considered. Where only a short time remains before the time set for bid opening, consideration should be given to notifying bidders of an extension of time by telegram or telephone. Such notification should be confirmed in the amendment.

(c) Any information given to a prospective bidder concerning an invitation for bids shall be furnished promptly to all other prospective bidders, as an amendment to the invitation, whether or not a pre-bid conference is held, if such information is necessary to the bidders in submitting bids on the invitation or if the lack of such information would be prejudicial to uninformed bidders. No award shall be made on the invitation unless such amendment has been issued in sufficient time to permit all prospective bidders to consider such information in submitting or modifying their bids.

§ 2.209 Cancellation of invitations before opening.

Cancellation of an invitation for bids usually involves the loss of time, effort, and money, spent by Government and bidders in carrying the procurement process up to the point of cancellation. Invitations for bids should not be canceled unless cancellation is clearly in the public interest, such as where there is no longer a requirement for the supplies or services or where amendments to the invitation would be of such magnitude that a new invitation is desirable. Where an invitation is canceled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom invitations for bids were issued. The notice of cancellation shall identify the invitation for bids; briefly explain the reason the invitation is being canceled; and, where appropriate, assure prospective bidders that they will be given an opportunity to bid on any resolicitation of bids or any future requirements for the type of material or services involved. The cancellation shall be recorded in accordance with § 2.403.

§ 2.210 Qualified products.

See Subpart K, Part 1 of this chapter.

§ 2.211 Release of procurement information.

(a) *Prior to synopsis or solicitation.* Information concerning proposed procurements shall not be released outside the Government prior to solicitation except when pre-invitation notices have been used in accordance with §§ 2.205–6 or 18.205(c) of this chapter, or long-range procurement estimates have been issued in accordance with § 1.1007 of this chapter. Within the Government, such information shall be restricted to those having a legitimate interest therein. Such information shall be released to all potential contractors at the same time, as nearly as possible, so that one potential contractor shall not be given unfair advantage over another.

(b) *After synopsis or solicitation.* Discussions with prospective contractors regarding a potential procurement and the transmission of technical or other information shall be conducted only by the contracting officer or his superiors having contractual authority or by others specifically authorized. Such personnel shall not furnish any information to a potential supplier which alone or together with other information may afford him an advantage over others. However, general information which would not be prejudicial to other bidders may be furnished upon request, e.g., explanation of a particular contract clause or a particular condition of the schedule in the invitation for bids. When necessary to clarify ambiguities, or correct mistakes or omissions, an appropriate amendment to the solicitation shall be furnished in a timely manner to all to whom the solicitation has been furnished (see § 2.208).

§ 2.403 Recording of bids.

(a) The invitation number, bid opening date, general description of the procurement item, names of bidders, prices bid, and any other information required for bid evaluation, shall be entered on Abstract of Bids (DD Form 1501) which, except in the case of classified procurement, shall be available for public inspection. Abstract of Bids—Construction (DD Form 1501–1) shall be used for recording construction bids. When the items are too numerous to warrant the recording of all bids completely, an entry should be made of the opening date, invitation number, general description of the material, item number, and the price bid. The record or abstract shall be completed as soon as practical after the bids have been opened, and, as soon as all bids have been opened and read, the bid opening officer shall so certify on the record or abstract. If the invitation for bids is canceled before the time set for bid opening, this shall be recorded, together with a statement of the number of bids invited and the number of bids received. Copies of the abstract on unclassified bids exhibited to the public shall not contain information such as debarment, failure to meet minimum standards of responsibility, apparent collusion of bidders, or other notations not proper for the knowledge of the general public.

(b) The above forms need not be used by the Defense Fuel Supply Center for procurements of coal or petroleum products.

* * * * *

§ 2.503–1 Step one.

* * * * *

(b) * * *

(2) Technical proposals submitting data marked in accordance with § 3.507–1 of this chapter shall be accepted and handled in accordance with that section; and

* * * * *

(e) Consideration of late technical proposals is governed by the procedure in § 3.506 of this chapter except that the late technical proposals statement in paragraph (a)(6) of this section will be used in any resolicitation (see § 3.506(b) of this chapter).

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

10. Section 3.101(h) is revised and new §§ 3.106, 3.106–1, 3.106–2, and 3.109 are added, as follows:

§ 3.101 Negotiation as distinguished from formal advertising.

* * * * *

(h) Consideration of the nature and effectiveness of the prospective contractor's cost reduction program (For those contractors that have participated in the Defense Contractor Cost Reduction Program, a transcript of all Contractor Cost Reduction Program Report (DD Form 1514) evaluation certificates (Item 10 of the form) may be obtained from the Defense Documentation Center of the Defense Supply Agency, Cameron Station, Alexandria, Va., 22314. Such transcript or a statement that there is no record on file shall always be obtained for procurements in excess of $1 million. Cost reduction programs of contractors who have not submitted reports under the DOD Contractor Cost Reduction Program or who are not participating in the formal program should also be evaluated.);

§ 3.106 Presolicitation notices and conferences.

§ 3.106–1 General.

This subpart describes a procedure which may be used as a preliminary step to negotiated procurements where the cost of preparing a formal solicitation and response would be substantial for both the Government and industry. This procedure is designed to develop sources for procurement; permit the Government to solicit for preliminary information based on a general description of the supplies or services involved; permit prospective offerors to submit proposals without undue expenditure of effort, time, and money; and to explain complicated specifications and requirements to interested firms. The presolicitation conference shall not be used as a method for prequalification of offerors, and may be used only when approved at a level higher than the contracting officer.

§ 3.106–2 Presolicitation procedure.

(a) When a presolicitation notice is used it shall be prepared by the contracting officer and forwarded to all known potential offerors. It shall at least request an expression of interest in the contemplated procurement and shall designate a time for submission of responses. In cases of complex procurement, it may also request information pertaining to management, engineering, and production capabilities. Each notice shall de-

fine as explicitly as possible the information to be furnished by the offeror and shall indicate whether it is contemplated that the presolicitation notice will be followed by a conference and a formal solicitation. Detailed drawings, specifications, or plans shall not normally be included in a presolicitation notice. The presolicitation notice shall be synopsized in accordance with § 1.1003 of this chapter. See § 1.309 of this chapter for solicitations for informational or planning purposes; § 2.205–6 of this chapter for pre-invitation notices in formally advertised procurements; and §§ 2.207 and 3.504 of this chapter for prebid and preproposal conferences, respectively.

(b) All of those responding to the presolicitation notice shall be advised of the details of any pending presolicitation conference. The presolicitation conference shall be conducted by procurement personnel, and attended by technical and legal personnel as appropriate. All prospective offerors attending the conference shall be furnished copies of the solicitation, unless they decline to participate in the procurement. If it is determined to proceed with the procurement without a conference, those responding to the presolicitation notice shall be furnished a formal solicitation, except those who decline to participate. In addition, a copy of the solicitation shall be furnished to any prospective offeror who requests one (but see §§ 1.603 and 1.609–7 of this chapter).

(c) All prospective contractors shall be furnished identical information in connection with the proposed procurement. Care shall be taken to safeguard any information received in confidence (see § 1 1004 of this chapter).

§ 3.109 Abstract of proposals.

The abstract of proposals required by § 1.308(b)(7) of this chapter shall be prepared on Abstract of Bids (DD Form 1501) or Abstract of Bids—Construction (DD Form 1501–1) appropriately modified (see § 16.817 of this chapter) to include all the information necessary for evaluation (but see §§ 3.507–2 and 3.805–1(b)). These forms need not be used in the case of procurement from a single source of supply, for the chartering of vessels by the Military Sea Transportation Service, or for the procurement of coal and petroleum products by the Defense Fuel Supply Center.

11. Sections 3.201–2(b), 3.213–1, 3.213–2, 3.213–3, and 3.213–4 are revised, and new § 3.213–5 is added, as follows:

§ 3.201–2 Application.

* * * * *

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

(1) Procurements made in keeping with (i) labor surplus set-aside programs, including, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable, the placement of contracts for the total or any part of the requirements set-aside which are not filled by awards made in accordance with the provisions of the Notice of Labor Surplus Area Set-Aside (see § 1.804 of this chapter), or (ii) disaster area programs; and

(2) Procurements made in keeping with the small business programs (i) after determinations for set-asides, or (ii) to place the total or any part of the requirements set-aside which are not filled by awards to small business concerns, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable (see § 1.706–7 of this chapter).

§ 3.213–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(137), purchases and contracts may be negotiated if—

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

§ 3.213–2 Application.

(a) The authority of §§ 3.213—3.213–5 may be used for procuring additional units and replacement items of specified makes and models of technical equipment and parts, which are either: (1) for tactical use, or (2) an integral part of or used in direct support of a weapons system, or (3) for use in Alaska, Hawaii or outside the remainder of the United States, in theaters of operations, on board naval vessels, or at advanced or detached bases; and which have been adopted as standard items of supply in accordance with procedures prescribed by each respective Department. A current or recurring procurement requirement for the item shall be present.

(b) This authority would apply, for example, whenever it is necessary:

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

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

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

(4) To provide a uniform configuration of equipment for materiel programed for a Military Assistance Program (MAP) Country or Countries.

(c) Before making a determination to procure specified makes and models under the authority of §§ 3.213—3.213–5, consideration shall be given to whether:

(1) It is feasible, from an economical and timely deployment standpoint, to distribute or redistribute the equipment and parts already in the supply system on a selected geographic basis;

(2) It is practicable or economical to use or develop a military design which would permit standardization of components and parts under the Defense Standardization Program;

(3) Standardization will impair the capability of industry to produce mobilization requirements of all Departments;

(4) It is practicable to satisfy the requirement by interchanging parts and cannibalizing equipment already in the system;

(5) Future procurement of the selected item of equipment can be effected at reasonable prices;

(6) Standardization will serve to reduce or prevent an increase in the variety of parts that must be carried in stock;

(7) Standardization will render obsolete large dollar value inventories of equipment and supporting parts already in the supply system without compensating benefits;

(8) Standardization will enhance military mission capability;

(9) Savings in training personnel or procuring technical literature will accrue;

(10) Standardization will adversely affect existing coordinated military specifications and standards;

(11) The current design of the specified make and model to be standardized has been changed from the design of equipment of the same make and model now in the supply system; and whether requirement exists for design changes of a scope which would negate the benefits contemplated from this standardization action; and

(12) In cases where military mission capability is not overriding, the anticipated savings to be obtained from standardization, arrived at through an overall economic evaluation, including appropriate factors enumerated in paragraphs (a), (b), and (c) of this section, will equal or exceed the expected savings which would be obtained through unrestricted competition.

(d) In arriving at determinations to standardize under the authority of §§ 3.213—3.213–5, the originating Department shall consult with other user Departments and DSA, as applicable, in order to insure the full benefit of the action.

(e) The period of standardization, not to exceed 6 years, shall be commensurate with the useful life of the property proposed for standardization and the anticipated rate of change in design and interchangeability of components. Actions taken under the authority of §§ 3.213—3.213–5 shall be recorded and reviewed by the originating Department at a level designated by the approving authority, at least once every 2 years to determine whether the standardization should be continued, revised, or canceled. The redesign or redesignation of a model which has been standardized will not require revision or cancellation of standardization approval if interchangeability of parts of the new model with those of the model standardized is not affected in any significant respect.

§ 3.213–3 Limitation.

The authority of §§ 3.213—3.213–5 shall not be used (a) for initial procurements of equipment and parts; (b) or for the purpose of selecting arbitrarily the equipment and parts of certain suppliers; nor shall it be used unless the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part that: (1) the equipment constitutes technical equipment; (2) standardization of such equipment and interchangeability of its parts are necessary in the public interest; and (3) procurement of such equipment or of its parts by negotiation is necessary to assure that standardization and interchangeability.

§ 3.213–4 Notice of intent to standardize.

In cases involving procurement of technical equipment and parts for applications specified in § 3.213–2(a), where a Department expects that the equipment will be established as standard and that maintenance of such standardization can be secured only by subsequent negotiation, the following notice may be inserted in the initial solicitation of bids or proposals. Prior approval by the Head of the Procuring Activity, his Deputy or Principal Assistant responsible for procurement, shall be obtained:

NOTICE OF POSSIBLE STANDARDIZATION (AUGUST 1965)

All bidders are informed that it is possible that the products procured through this action may be established as standard and, at the option of the (Army, Navy, Air Force), subsequent procurements may be negotiated under authority of paragraph 3-213 of the Armed Services Procurement Regulation.

§ 3.213–5 Records and reports.

Each Military Department shall maintain on a current basis, a master list of items for which determinations and findings have been made under the authority of §§ 3.213—3.213–5. A copy of each such determination and finding shall be furnished to the Assistant Secretary of Defense (Installations and Logistics) within 5 days after the date thereof.

12. Section 3.409 is revised, and new §§ 3.409–1, 3.409–2, 3.409–3, and 3.409–4 are added, as follows:

§ 3.409 Indefinite delivery type contracts.

One of the following indefinite delivery type contracts may be used for procurement where the exact time of delivery is not known at time of contracting.

§ 3.409–1 Definite quantity contracts.

(a) *Description.* This type of contract provides for a definite quantity of specified supplies or for the performance of specified services for a fixed period, with deliveries or performance at designated locations upon order. Depending on the situation, the contract may provide for (1) firm fixed-prices, (2) price escalation, or (3) price redetermination.

(b) *Applicability.* This type of contract is particularly suitable for use where it is known in advance that a definite quantity of supplies or services will be required during a specified period and are regularly available or will be available after a short lead time. Advantages of this type of contract are that it permits stocks in storage depots to be maintained at minimum levels and permits direct shipment to the user.

§ 3.409–2 Requirements contracts.

(a) *Description.* This type of contract provides for filling all actual purchase requirements of specific supplies or services of designated activities during a specified contract period with deliveries to be scheduled by the timely placement of orders upon the contractor by activities designated either specifically or by class. Depending on the situation, the contract may provide for (1) firm fixed prices, (2) price escalation, or (3) price redetermination. An estimated total quantity is stated for the information of prospective contractors, which estimate should be as realistic as possible. The estimate may be obtained from the records of previous requirements and consumption, or by other means. Care should be used in writing and administering this type of contract to avoid imposition of an impossible burden on the contractor. Therefore, the contract shall state, where feasible, the maximum limit of the contractor's obligation to deliver and, in such event, shall also contain appropriate provision limiting the Government's obligation to order. When large individual orders or orders from more than one activity are anticipated, the contract may specify the maximum quantities which may be ordered under each individual order or during a specified period of time. Similarly, when small orders are anticipated, the contract may specify the minimum quantities to be ordered. Funds are obligated by each order and not by the contract itself.

(b) *Applicability.* A requirements contract may be used for procurements where it is impossible to determine in advance the precise quantities of the supplies or services that will be needed by designated activities during a definite period of time. Advantages of this type of contract are:

(1) Flexibility with respect to both quantities and delivery scheduling;

(2) Supplies or services need be ordered only after actual needs have materialized;

(3) Where production lead time is involved, deliveries may be made more promptly because the contractor is usually willing to maintain limited stocks in view of the Government's commitment;

(4) Price advantages or savings may be realized through combining several anticipated requirements into one quantity procurement; and

(5) It permits stocks to be maintained at minimum levels and allows direct shipment to the user.

Generally, the requirements contract is appropriate for use when the item of service is commercial or modified commercial in type and when a recurring need is anticipated.

§ 3.409–3 Indefinite quantity contracts.

(a) *Description.* This type of contract provides for the furnishing of an indefinite quantity, within stated limits, of specific supplies or services, during a specified contract period, with deliveries to be scheduled by the timely placement of orders upon the contractor by activities designated either specifically or by class. Depending on the situation, the contract may provide for (1) firm fixed prices; (2) price escalation; or (3) price redetermination. The contract shall provide that during the contract period the Government shall order a stated minimum quantity of the supplies or services and that the contractor shall furnish such stated minimum and, if and as ordered, any additional quantities not exceeding a stated maximum which should be as realistic as possible. The maximum may be obtained from the records of previous requirements and consumption, or by other means. When large individual orders or orders from more than one activity are anticipated, the contract may specify the maximum quantities which may be ordered under each individual order or during a specified period of time. Similarly, when small orders are anticipated, the contract may specify the minimum quantities to be ordered. Funds for other than the stated minimum quantity are obligated by each order and not by the contract itself.

(b) *Applicability.* An indefinite quantity contract may be used where it is impossible to determine in advance the precise quantities of the supplies or services that will be needed by designated activities during a definite period of time and it is not advisable for the Government to commit itself for more than a minimum quantity. Advantages of this type of contract are:

(1) Flexibility with respect to both quantities and delivery scheduling;

(2) Supplies or services need be ordered only after actual needs have materialized;

(3) The obligation of the Government is limited; and

(4) It permits stocks to be maintained at minimum levels and allows direct shipment to the user.

The indefinite quantity contract should be used only when the item or service is commercial or modified commercial in type and when a recurring need is anticipated.

§ 3.409–4 Orders.

Orders placed under indefinite delivery type contracts shall contain the following information, consistent with the contract terms:

(a) Date of order;

(b) Contract number and order number;

(c) Item number and description, quantity ordered, and contract price;

(d) Delivery or performance date;

(e) Place of delivery or performance (including consignee);

(f) Packaging, packing, and shipping instructions, if any;

(g) Accounting and appropriation data; and

(h) Any other pertinent information.

13. In § 3.410–1, paragraphs (a) and (c) are revised and new paragraph (d) is added; § 3.410–2(a) is revised; and in § 3.501(b), subparagraphs (10), (17), (21), (23), (26), and (33) are revised, new (39) is added, (40) is revised, and new (49), (54), (55), (56), and (57) are added, as follows:

§ 3.410–1 Basic agreement.

(a) *Description.* A basic agreement is not a contract. It is a written instrument of understanding executed between a Department or procuring activity and a contractor which sets forth the negotiated contract clauses which shall be applicable to future procurements entered into between the parties during the term of the basic agreement. The use of the basic agreement contemplates the coverage of a particular procurement by the execution of a formal contractual document which will provide for the scope of the work price, delivery, and additional matters peculiar to the requirements of the specific procurement involved, and shall incorporate by reference or append the contract clauses agreed upon in the basic agreement as required or applicable. Basic agreements may be used with fixed-price or cost-reimbursement type contracts.

* * * * *

(c) *Content and form.* Basic agreements shall contain a set of "General Provisions". These general provisions shall include two groups of clauses. The first group, identified as "Part A", shall include all of the clauses made mandatory by statute, Executive Order, or this subchapter for use in negotiated Government contracts, and shall be made a part of each formal contractual document. The second group, identified as "Part B", shall consist of clauses which may be made a part of each formal contractual document, depending upon their applicability to the particular procurement. The format set forth below may be adapted to fit specific circumstances.

BASIC AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA AND _____

This Agreement is entered into as of the _____ day of _____ 19__ between the United States of America, hereinafter called the "Government", represented by the Contracting Officer, _____ and _____, a corporation organized and existing under the laws of the State of _____, hereinafter called "Contractor."

The clauses and provisions of Parts A and B hereinafter set forth have been agreed upon by the parties hereto for use in negotiated _____ type contracts and in letter contracts contemplating conversion to _____ type contracts, between the parties, entered into on or after the date of this Agreement, and prior to its termination. It is further agreed that (i) the clauses and provisions set forth in Part A are mandatory clauses and shall, by reference or attachment, be incorporated in each contract awarded pursuant to this Agreement, and (ii) the clauses and provisions set forth in Part B are to be similarly incorporated in such contracts only when applicable and agreed to by the parties for each individual contract.

This Agreement, including Parts A and B hereof, may be amended only by mutual agreement of the parties, and the Agreement may be terminated in its entirety by either party upon thirty (30) days written notice to the other party, except that this Agreement may be terminated by the Government at any time if the parties fail to agree upon any deletion, amendment or addition to this Agreement which is required by statute, Executive Order, or the Armed Services Procurement Regulation. No deletion, modification, addition to, or termination of, this Agreement shall affect any contracts theretofore entered into between the parties in which this Agreement or a portion thereof has been incorporated by reference.

This Agreement shall be reviewed, as a minimum, anually before the anniversary of its effective date, and revised to conform with all requirements of statutes, Executive Orders, or the Armed Services Procurement Regulation. This revision shall be evidenced by an agreement modifying this Basic Agreement or by the issuance of a superseding Basic Agreement.

This Agreement shall not be referred to by the Contractor in bids submitted in response to invitations for bids nor become a part of any contract placed through the process of formal advertising.

In WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written:

UNITED STATES OF AMERICA
By _____
(Contracting Officer)
_____
(Name of Company)
By _____
_____
(Title)

(d) *Limitations.* (1) Basic agreements shall neither cite appropriations to be charged nor be used alone for the purpose of obligating funds.

(2) Basic agreements shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the contractor involved, nor shall they be used in any manner to restrict competition.

(3) Basic agreements generally shall be utilized only in connection with negotiated contracts.

§ 3.410–2 Basic ordering agreement.

(a) *Description.* A basic ordering agreement is not a contract. It is an agreement which is similar to a basic agreement (see § 3.410–1) except that it also includes a description, as specific as practicable, of the supplies to be furnished or services to be performed when ordered and a description of the method for determination of the prices, consistent with the contract types authorized by this subpart, to be paid to the contractor for such supplies or services. Either the specific terms and conditions of delivery or a description of the method for their determination shall be set forth in the basic ordering agreement. The basic ordering agreement shall list one or more activities which are authorized to issue orders under the agreement. Any activity so named may issue orders specifying the supplies or services required, which orders may be accepted by the contractor by whatever manner of acceptance is indicated in the basic ordering agreement. Each order will incorporate by reference the provisions of the basic ordering agreement.

* * * * *

§ 3.501 Preparation of request for proposals or request for quotations.

* * * * *

(b) * * *

(10) Requirements for performance and payment bonds (see Subpart A, Part 10 of this chapter);

* * * * *

(17) Identification of special factors, such as Government costs or other expenditures, including reliability and maintainability requirements, which must be considered in the evaluation of proposals or quotations;

* * * * *

(21) Instructions regarding the marking of information which is not to be disclosed to the public or used by the Government for any purpose other than the evaluation of the proposals or quotations (see § 3.507–1);

* * * * *

(23) Where DD Form 746, Request for Proposals and Proposal (Dec. 1, 1963, edition) is not used, a provision for late proposals and modifications as set forth in § 3.506 and, in addition, the following notice shall be prominently set forth in the request for proposals (in the case of request for quotations, the provision in § 3.506 and the following notice will be appropriately modified):

CAUTION—LATE PROPOSALS. See the special provision in this solicitation entitled "Late Proposals".

* * * * *

(26) A requirement that the proposal or quotation state the intended place of performance, including the street address, and the names and addresses of owner and operator of producing facilities, if other than offeror, when it is reasonably anticipated that such facilities will be used in the performance of the contract;

* * * * *

(33) Description of information required to support proposed prices (subcontract structure, make-or-buy program, purchasing system, royalty, and cost and price information) (see Subparts H and I of this part and Subpart A of Part 9 of this chapter);

* * * * *

(39) A statement as follows:

This procurement is not set aside for labor surplus area concerns. However the offeror's status as such a concern may affect entitlement to award in the case of tie offers, or in the evaluation of offers in accordance with the "Buy American" clause of this solicitation. In order to have his entitlement to a preference determined on the occurrence of those events, the offeror must identify below the areas in which the costs that he will incur on account of manufacturing or production (by himself or his first-tier subcontractors) amount to more than 50 percent of the contract price:

_____
_____
_____
_____

Failure to list the proposed areas or performance as specified above will preclude consideration of such offeror as a labor surplus area concern.

The offeror agrees that if, as a labor surplus area concern, he is awarde da contract for which he would not have qualified in the absence of such a classification, he will perform or cause to be performed the contract in accordance with the circumstances justifying the preference.

(40) A statement as follows:

UNNECESSARILY ELABORATE CONTRACTORS PROPOSALS (AUGUST 1965)

UNNECESSARILY ELABORATE CONTRACTOR'S PROpresentations beyond that sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work, expensive paper and bindings and expensive visual and other presentation aids are neither necessary nor wanted.

The above statement shall be appropriately modified when included in a Request for Quotations.

* * * * *

(49) Unless contained elsewhere in the solicitation, a statement as follows:

ORDER OF PRECEDENCE (AUGUST 1965)

In the event of an inconsistency between provisons of this solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) the Schedule; (b) Terms and Conditions of the solicitation; (c) General Provisions; (d) other provisions of the contract, where attached or incorporated by reference; and (e) the Specifications.

The foregoing statement may be modified to change the order or to add or delete items to meet the needs of a particular procurement.

* * * * *

(54) The statement in § 2.201(a)(11) of this chapter regarding full, accurate and complete information, modified for proposals or quotations;

(55) A statement requesting the prospective offeror to list the names and telephone numbers of persons authorized to conduct negotiations;

(56) Pending revision of forms used for soliciting proposals or quotations, a requirement for inclusion of "county" as part of quoter's/offeror's address will be inserted; and

(57) Any requirement for first article approval (see Subpart S, Part 1 of this chapter).

14. Section 3.504 is revised; new §§ 3.504–1 and 3.504–2 are added; §§ 3.505 and 3.506 are revised; and §§ 3.506–1 and 3.506–2 are revoked, as follows:

§ 3.504 Pre-proposal conferences.

§ 3.504–1 General.

(a) The pre-proposal conference is a procedure which may be used, generally in complex negotiated procurements, as a means of briefing prospective offerors after a solicitation has been issued but before offers or proposals are prepared. This procedure may be used when approved at a level higher than the contracting officers.

(b) Such a conference permits the Government to explain or clarify complicated specifications and requirements to interested firms. It may also be used to provide an opportunity for interested firms to examine a model of the equipment being procured, where for reasons such as security or limited quantities, such model can only be shown at a specific time and location.

§ 3.504–2 Procedure.

(a) Where it is determined to be in the best interests of the Government to hold a pre-proposal conference, the contracting officer shall make the necessary arrangements and shall notify all those to whom solicitations have been issued as to the time, place, and general nature of the proposed conference. Such a determination may be made as a result of questions and problems raised by prospective offerors. Adequate notice shall be given to prospective offerors so that all who wish to may arrange for representation. The notice shall define as explicitly as possible the nature and scope of the conference. If time permits, prospective offerors should be asked to submit any questions they may have in advance, in order to give the purchasing office time to prepare and to make the conference as fruitful as possible.

(b) The pre-proposal conference shall be conducted by the contracting officer or his representative, and attended by technical and legal personnel as appropriate.

(c) All prospective offerors shall be furnished identical information in connection with the proposed procurement. Remarks and explanations at the conference shall not qualify the terms of the solicitation and specifications. All conferees shall be advised that unless the solicitation is amended in writing it will remain unchanged and that if an amendment is issued, normal procedures relating to the acknowledgment and receipt of solicitation amendments shall be applied. A complete record shall be made of the conference.

§ 3.505 Amendment of request for proposals and request for quotations—prior to closing date.

(a) If after issuance of a request for proposals or quotations, but before the closing date of their receipt, it becomes necessary to make significant changes in quantity, specifications, or delivery schedules, any change in closing dates, or to correct a defect or ambiguity, such change shall be accomplished by issuance of an amendment to the request, whether or not a pre-proposal conference is held. DD Form 746s (see § 16.203 of this chapter) shall be used for amending a request for proposals. Requests for quotations may be amended by letter.

(b) When it is considered necessary to issue an amendment to a request for proposals or request for quotations, the period of time remaining before closing and the need for extending this period by postponing the time set for closing must be considered. Where only a short time remains before the time set for closing, consideration should be given to notifying offerors or quoters of an extension of time by telegram or telephone. Such notification should be confirmed in the amendment.

(c) Any information given to a prospective offeror or quoter concerning a request for proposals or request for quotations shall be furnished promptly to all other prospective offerors or quoters as an amendment to the request, whether or not a pre-proposal conference is held, if such information is necessary to offerors or quoters in submitting proposals or quotations on the request, or if the lack of such information would be prejudicial to uninformed offerors or quoters. No award shall be made on a request for proposals unless such amendment thereto has been issued in sufficient time to permit prospective offerors to consider such information in submitting or modifying their proposals.

§ 3.506 Late proposals and modifications.

(a) Proposals which are received in the office designated in the requests for proposals after the time specified for their submission are "Late Proposals." Late proposals shall not be considered for award, except under the circumstances set forth in § 2.303 of this chapter relating to late bids or where only one proposal is received. (For the purpose of applying the late bid rules to late proposals, unless a specific time for receipt of proposals is stated in the request for proposals, the time for such receipt shall be deemed to be the time for close of business of the office designated for receipt of proposals on the date stated in the request for proposals.) Notwithstanding the provisions of § 1.109 of this chapter, exceptions may be authorized only by the Secretary concerned, and only where consideration of a late proposal is of extreme importance to the Government, as for example where it offers some important technical or scientific breakthrough. To determine the possible existence of such extreme importance, notwithstanding § 2.303–7 of this chapter, all late proposals shall be opened prior to award and if not considered for award shall be returned to the offeror.

(b) In the exceptional circumstance where the Secretary concerned authorizes an exception from paragraph (a) of this section, the contracting officer shall resolicit all firms (including late offerors) which have submitted proposals and are determined to be capable of meeting current requirements. Such resolicitation shall specify a date for submission of new proposals and include the "Late Proposals" provision set forth in paragraph (d) of this section.

(c) The normal revisions of proposals by selected offerors occurring during the usual conduct of negotiations with such offerors are not to be considered as late proposals but shall be handled in accordance with § 3.805–1.

(d) Written requests for proposals shall contain the following provisions.

LATE PROPOSALS (JANUARY 1964)

(a) Proposals and modifications received at the office designated in the request for proposals after the close of business on the date set for receipt thereof (or after the time set for receipt if a particular time is specified) will not be considered unless:

(i) They are received before award is made; and either

(ii) They are sent by registered mail, or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained, or by telegraph; and, it is determined by the Government that late receipt was due solely to delay in the mails, or delay by the telegraph company, for which the offeror was not responsible; or

(iii) If submitted by mail or telegram, it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation: *Provided*, That timely receipt at such installation is established upon examination of an appropriate date or time stamp (if any) of such installation, or of other documentary evidence of receipt at such installation (if readily available) within the control of such installation or of the post office serving it.

(b) Offerors using certified mail are cautioned to obtain a Receipt for Certified Mail showing a legible, dated postmark and to retain such receipt against the chance that it will be required as evidence that a late proposal was timely mailed.

(c) The time of mailing of late proposals submitted by registered or certified mail shall be deemed to be the last minute of the date shown in the postmark on the registered mail receipt or registered mail wrapper or on the Receipt for Certified Mail unless the offeror furnishes evidence from the post office station of mailing which establishes an earlier time. In the case of certified mail, the only acceptable evidence is as follows: (i) Where the Receipt for Certified Mail identifies the post office station of mailing evidence furnished by the offeror which establishes that the business day of that station ended at an earlier time, in which case the time of mailing shall be deemed to be the last minute of the business day of that station; or (ii) an entry in ink on the Receipt for Certified Mail showing the time of mailing and the initials of the postal employee receiving the item and making the entry, with appropriate written verification of such entry from the post office station of mailing, in which case the time of mailing shall be the time shown in the entry. If the postmark on the original Receipt for Certified mark on the original Receipt for Certified Mail does not show a date, the offer shall not be considered.

(e) Offerors submitting late proposals or modifications shall be notified in accordance with § 2.303–6 of this chapter, except that the notices provided for therein shall be appropriately modified to relate to the request for proposals and the proposal or modifications thereunder.

(f) The provisions of paragraphs (a) through (c) of this section are also applicable to late quotations. In the case of a request for quotations, the provision set forth in paragraph (d) of this section will be appropriately modified.

(g) Modifications of proposals (other than the normal revisions of proposals by selected offerors during the usual conduct of negotiations with such offerors) which are received in the office designated in the requests for proposals after the time specified for submission of proposals are "late modifications." Late modifications shall be subject to the rules applicable to late proposals set forth in this section. However, a modification received from an otherwise successful offeror which is favorable to the Government shall be considered at any time that such modification is received. The provisions of this section are also applicable to late modifications to quotations.

(h) The provisions of this section apply only to purchases in excess of $2,500.

§ 3.506–1 Restrictions on disclosure of data in proposals. [Revoked]

§ 3.506–2 Disclosure of information during the pre-award or pre-acceptance period. [Revoked]

15. Section 3.507 is revised; new §§ 3.507–1 and 3.507–2 are added; and §§ 3.508 and 3.509 are revised, as follows:

§ 3.507 Treatment of procurement information.

§ 3.507–1 Restrictions on disclosure of data in proposals.

(a) Requests for proposals may require the offeror to submit data with his proposal which may include a design or plan for accomplishing the objectives of the procurement. Such data may include information which the offeror does not want disclosed to the public or used by the Government for any purpose other than evaluation of the proposals. Offerors shall mark each sheet of data which they so wish to restrict with the legend set forth below:

This data furnished in response to RFP No. _____, shall not be disclosed outside the Government or be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the proposal: *Provided*, That if a contract is awarded to this offeror as a result of or in connection with the submission of such data, the Government shall have the right to duplicate, use, or disclose this data to the extent provided in the contract. This restriction does not limit the Government's right to use information contained in such data if it is obtained from another source (MARCH 1958).

Contracting officers shall not refuse to consider any proposal merely because data submitted with that proposal is so marked. Data so marked shall be used only to evaluate proposals and shall not be disclosed outside the Government without the written permission of the offeror except under the conditions provided in the legend. If it is desired to duplicate, use, or disclose the data of the offeror to which the contract is awarded, for purposes other than to evaluate the proposal, the contract should so provide in accordance with § 9.202–3(d) of this chapter. See § 9.201 of this chapter for a description of "data" and Subpart B, Part 9 of this chapter, in general, for the policy, instructions, and contract clauses with respect to the acquisition and use of data.

(b) The provisions in paragraph (a) of this section are also applicable to quotations. In the case of a request for quotations, the legend in paragraph (a) of this section shall be appropriately modified.

§ 3.507–2 Disclosure of information during the pre-award or pre-acceptance period.

(a) *General.* After receipt of proposals or quotations, no information contained in any proposal or quotation regarding the number or identity of the offerors shall be made available to the public, or to anyone within the Government not having a legitimate interest therein, except in accordance with § 3.508(a).

(b) *Equal consideration and information to all prospective contractors.* Discussions with prospective contractors regarding a potential procurement and the transmission of technical or other information shall be conducted only by the contracting officer, his superiors having contractual authority or others specifically authorized. Such personnel shall not furnish any information to a potential supplier which alone or together with other information may afford him an advantage over others. However, general information which would not be prejudicial to others may be furnished upon request e.g., explanation of a particular contract clause or a particular condition of the schedule. When necessary to clarify ambiguities, or correct mistakes or omissions, an appropriate amendment to the solicitation shall be furnished in a timely manner to all to whom the solicitation has been furnished (see § 3.505).

§ 3.508 Information to unsuccessful offerors.

(a) *Pre-award notice of unacceptable offers.* In any procurement in excess of $10,000 in which it appears that the period of evaluation of proposals is likely to exceed 30 days or in which a limited number of suppliers have been selected for additional negotiation (see § 3.805–1), the contracting officer, upon determination that a proposal is unacceptable, shall provide prompt notice of that fact to the source submitting the proposal. Such notice need not be given where disclosure will in some way prejudice the Government's interest or where the proposed contract is:

(1) For subsistence;

(2) Negotiated pursuant to 10 U.S.C. 2304(a) (4), (5), or (6) (see §§ 3.204, 3.205, or 3.206);

(3) Negotiated with a foreign supplier when only foreign sources of supplies or services have been solicited; or

(4) To be awarded within a few days and notice pursuant to paragraph (b) of this section would suffice.

In addition to stating that the proposal has been determined unacceptable, notice to the offeror shall indicate, in general terms, the basis for such determination and shall advise that, since further negotiation with him concerning this procurement is not contemplated, a revision of his proposal will not be considered.

(b) *Post-award notice of unaccepted offers.* (1) Promptly after making all

awards in any procurement in excess of $10,000, the contracting officer shall give written notice to the unsuccessful offerors that their proposals were not accepted, except that such notice need not be given where notice has been provided pursuant to paragraph (a) of this section or the contract is for subsistence, or is negotiated pursuant to 10 U.S.C. 2304(a) (4), (5), or (6) (see §§ 3.204, 3.205, or 3.206); or is negotiated with a foreign supplier when only foreign sources of supplies or services have been solicited. Such notice shall also include:

(i) The number of prospective contractors solicited;

(ii) The number of proposals received;

(iii) The name and address of each offeror receiving an award;

(iv) The items, quantities, and unit prices of each award: *Provided*, That, where the number of items or other factors makes the listing of unit prices impracticable, only the total contract price need be furnished; and

(v) In general terms, the reasons why the offeror's proposal was not accepted, except where the price information in subdivision (iv) of this subparagraph readily reveals such reason, but in no event will an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information be disclosed to any other offeror.

Additional information as to why an offeror's proposal was not accepted should be provided to the offeror upon his request to the contracting officer, subject to the limitation in subdivision (v) of this subparagraph.

(2) In procurements of $10,000 or less and subject to the exceptions in subparagraph (1) of this paragraph, the information described in that subparagraph shall be furnished to unsuccessful offerors upon request.

(c) *Classified information.* Classified information shall be furnished only in accordance with regulations governing classified information.

§ 3.509 Protests against award.

Protests against awards of negotiated procurements shall be treated substantially in accordance with § 2.407–9 of this chapter.

16. New § 3.510 is added; in § 3.605–3, paragraph (b)(2) is revised; in § 3.805–1, paragraphs (a)(5), (b), and (e) are revised; and in § 3.808–5, paragraph (d)(2) and (6)(iv) is revised, as follows:

§ 3.510 Disclosure of mistakes after award.

When a mistake in a contractor's proposal is not discovered until after award, the authority to correct mistakes contained in § 2.406–4 of this chapter may be utilized in accordance with the limitations and procedures set forth therein.

§ 3.605–3 Establishment of blanket purchase agreements.

* * * * *

(b) * * *

(2) Blanket purchase agreements issued by the Defense Personnel Support Center may be prepared on its form "Order for Subsistence."

* * * * *

§ 3.805–1 General.

(a) * * *

(5) Procurements in which it can be clearly demonstrated from the existence of adequate competition or accurate prior cost experience with the product or service that acceptance of the most favorable initial proposal without discussion would result in a fair and reasonable price: (*Provided, however*, That in such procurements, the request for proposals shall notify all offerors of the possibility that award may be made without discussion of proposals received and hence, that proposals should be submitted initially on the most favorable terms from a price and technical standpoint which the offeror can submit to the Government. In any case where there is uncertainty as to the pricing or technical aspects of any proposals, the contracting officer shall not make award without further exploration and discussion prior to award. Also, when the proposal most advantageous to the Government involves a material departure from the stated requirements, consideration shall be given to offering the other firms which submitted proposals an opportunity to submit new proposals on a technical basis which is comparable to that of the most advantageous proposal, provided that this can be done without revealing to the other firms any information which is entitled to protection under §3.507–1. Paragraph (f) of the acceptance provision of DD Form 746 advises offerors that the most favorable initial proposal may be accepted without discussion.)

(b) Whenever negotiations are conducted with more than one offeror, no indication shall be made to any offeror of a price which must be met to obtain further consideration since such practice constitutes an auction technique which must be avoided. After receipt of proposals, no information regarding the number or identity of the offerors participating in the negotiations shall be made available to the public or to any one whose official duties do not require such knowledge. Whenever negotiations are conducted with several offerors, while such negotiations may be conducted successively, all offerors selected to participate in such negotiations (see paragraph (a) of this section) shall be offered an equitable opportunity to submit such price, technical, or other revisions in their proposals as may result from the negotiations. All such offerors shall be informed of the specified date (and time if desired) of the closing of negotiations and that any revisions to their proposals must be submitted by that date. All such offerors shall be informed that any revision received after such date shall be treated as a late proposal in accordance with the "Late Proposals" provisions of the request for proposals. (In the exceptional circumstance where the Secretary concerned authorizes consideration of such a late proposal, resolicitation shall be limited to the selected offerors with whom negotiations have been conducted.) In addition, all such offerors shall also be informed that after the specified date for the closing of negotiation no information other than notice of unacceptability of proposal, if applicable (see § 3.508), will be furnished to any offeror until award has been made.

* * * * *

(e) When, during negotiations, a substantial change occurs in the Government's requirements or a decision is reached to relax, increase or otherwise modify the scope of the work or statement of requirements, such change or modification shall be made in writing as an amendment to the request for proposal or request for quotations, and a copy shall be furnished to each prospective contractor (see §§ 3.505 and 3.507). Oral advice of change or modification may be given if (1) the changes involved are not complex in nature, (2) all prospective contractors are notified simultaneously (preferably by a meeting with the contracting officer), and (3) a record is made of the oral advice given. In such instances, however, the oral advice should be promptly followed by a written amendment verifying such oral advice previously given. The dissemination of oral advice of changes or modifications separately to each prospective bidder during individual negotiation sessions should be avoided unless preceded, accompanied, or immediately followed by a written amendment to the request for proposal or request for quotations embodying such changes or modifications.

§ 3.808–5 Assignment of values to specific factors.

* * * * *

(d) *Record of contract performance* * * *

(2) Contracting officers should insure that an adequate review is made of contractor's past performance in order that an objective evaluation of this performance may be accomplished. For assistance in evaluating the past and present performance of a contractor who has engaged in advanced development, engineering development or operational systems development, a transcript of his Contractor Performance Evaluation Report may be requested from the Defense Documentation Center of the Defense Supply Agency, Cameron Station, Alexandria, Va., 22314. Such transcript or a statement that there is no record on file shall always be obtained for procurements in excess of $1 million (see § 4.215 of this chapter). Reports of cost reduction monitors, small business, labor surplus and other specialists involved in the evaluation of the various aspects of contractor performance should be obtained.

* * * * *

(6) * * *

(iv) *Cost reduction program accomplishments.*—Accomplishments of contractors who successfully reduce the cost of defense procurement under a cost reduction program established in accordance with Department of Defense criteria should be considered. Cost reduction programs of contractors who have

not submitted reports under the DOD Contractor Cost Reduction Program or who are not participating in the formal program should also be evaluated.

* * * * *

PART 4—SPECIAL TYPES AND METHODS OF PROCUREMENT

17. Sections 4.205–4 (c) and (d), 4.205–5(d), 4.209(b), and 4.215 are revised to read as follows:

§ 4.205–4 Evaluation for award.

* * * * *

(c) In determining to whom the contract shall be awarded, the contracting officer shall consider not only technical competence, but also all other pertinent factors including management capabilities, cost controls including the nature and effectiveness of any cost reduction program (see § 3.101(h) of this chapter), and past performance in adhering to contract requirements, weighing each factor in accordance with the requirements of the particular procurement (see § 1.903 of this chapter). The contracting officer shall notify those sources whose proposals or offers have been determined to be unacceptable of that decision in accordance with § 3.508 of this chapter.

(d) In evaluating proposals for advanced development, engineering development, and operational systems development contracts in excess of $1 million, the source selection board or the contracting officer shall obtain from the Defense Documentation Center of the Defense Supply Agency, Cameron Station, Alexandria, Va., 22314 (see § 4.215), a transcript of the performance evaluations of all contractors submitting acceptable proposals, or a statement that there is no record on file. This transcript or statement may be obtained for a procurement below $1 million. This information shall be furnished within 7 working days from receipt of the request.

§ 4.205–5 Evaluation of price and costs.

* * * * *

(d) Special care should be exercised to comply with §§ 15.205–1 and 15.205–33 of this chapter in the allowance of advertising costs under § 15.309–1 of this chapter.

§ 4.209 Special use allowances for research facilities acquired by educational institutions.

* * * * *

(b) *Policy.* The expanding requirements of the Department of Defense for the performance of scientific research programs by educational institutions may create special situations wherein the acquisition or construction of additional research facilities by such institutions is essential for the effective performance of scientific research programs of major importance to the Department of Defense. Educational institutions are expected to furnish facilities required for the performance of Defense contracts, and the extent of reimbursement by the Government for the research programs of such institutions shall be governed by the principles set forth in Subpart C, Part 15 of this chapter. However, in certain limited situations an educational institution may be unable to provide capital for new laboratories or other expanded facilities necessitated by Defense contracts unless the institution is given governmental assistance in return for the risks and expenses it assumes in acquiring or constructing such facilities. Special use allowances constitute a means for recognizing these risks and expenses on the part of the educational institution and also provide a basis for permitting essential governmental research programs to go forward. The resort to special use allowances as provided by this section is an extraordinary type of arrangement and constitutes an exception to the provisions for normal use allowances contained in § 15.309–10 of this chapter. Any specific agreement providing for a special use allowance shall be negotiated on a case-by-case basis using the criteria established herein.

* * * * *

§ 4.215 Contractor Performance Evaluation Program.

The Contractor Performance Evaluation Program is a procedure for determining and recording the effectiveness of advanced development (with measurable contractual commitments), engineering development, and operational systems development contractors in meeting the performance, schedule, and cost provisions of their contracts. The program requires project managers within the Military Departments to submit periodic Contractor Performance Evaluation Reports (see DD Form 1446 series) for such contracts whose projected cost for a single year will exceed $5 million or whose projected over-all cost will exceed $20 million. After review or certification by the appropriate Departmental Contractor Performance Evaluation Group (see DD Form 1447 series), the report is submitted to the contractor and then transmitted, with the contractor's comments, to the Director of Contract Performance Evaluation, Office of the Assistant Secretary of Defense (Installations and Logistics), for storage in a central data bank and use by source selection boards and contracting officers. The central data bank is maintained at the Defense Documentation Center of the Defense Supply Agency, Cameron Station, Alexandria, Va., 22314. Detailed procedures for this program are set forth in the Department of Defense Guide to the Evaluation of the Performance of Major Development Contractors.

PART 5—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

18. Sections 5.100, 5.101, 5.102–2, and 5.106 are revised and new §§ 5.107 and 5.108 are added, as follows:

§ 5.100 Applicability.

This subpart applies to procurement of supplies to be delivered or services to be performed in the United States (exclusive of Alaska and Hawaii) including the satisfaction of overseas requirements when such requirements are routed to facilities in the United States for supply action in accordance with instructions prescribed by the Military Departments. It does not apply to items under the cognizance of the Defense Personnel Support Center or to items which are being purchased for resale.

§ 5.101 Federal Supply Schedule contracts.

(a) *General.* The Federal Supply Service, General Services Administration, establishes contracts for common use classes of supplies and services. These contracts are summarized in Federal Supply Schedules which list the contractors and the supplies or services that may be purchased from them. Military purchasing offices shall order their requirements for supplies or services covered by these contracts as set forth in §§ 5.102 and 5.103. Copies of the Federal Supply Schedules and the Federal Supply Schedule Check List (a quarterly publication indicating the status of all Federal Supply Schedules) are distributed by the General Services Administration to all purchasing activities. Copies of the Schedules and the Check List and the General Provisions of the Federal Supply Schedule contracts are available from the General Services Administration regional offices listed in § 5.203. Requests for them should be submitted on GSA Form 457, which is also available from the regional offices.

(b) *Standard Form 149, U.S. Government National Credit Card.* The U.S. Government National Credit Card (Standard Form 149) may be used in obtaining service station supplies and services under Federal Supply Schedule Contracts, FSC Group 91.

§ 5.102–2 Exceptions to mandatory use.

(a) *Delivery requirements.* When the delivery period stated in a Federal Supply Schedule does not meet the delivery requirement of the purchasing office, use of the Federal Supply Schedule is not mandatory. However, delivery dates shown in Federal Supply Schedules are based upon the average capability of the contractor and are usually conservative. In most instances, contractors are able to make delivery within a shorter period of time. Therefore, when delivery is required in a shorter time than the maximum shown in the Schedule, the contractor should be asked if the shorter delivery requirements can be met. If the contractor offers to meet the earlier delivery requirements, they should be specified in the order with a reference to such offer. If delivery is offered in a shorter time than the maximum stated in the Schedule, but later than that required by the purchase request, the contracting officer shall ascertain from the activity initiating the purchase request whether the offered delivery is acceptable. This procedure need not be followed when transportation time from the contractor's shipping point or time required for inquiry and reply make conformance impracticable. When multiple award schedules are involved, the purchasing office need query only one contractor after considering the requirements of § 5.106.

(b) *Similar items.* When specific supplies or services listed in a Federal Supply Schedule will not meet a special requirement, use of the Schedule is not mandatory. When supplies or services having the same general characteristics and intended use are to be procured from other sources, the head of the office initiating the purchase request or his designated representative shall furnish the purchasing office a signed statement identifying the supplies or services to be purchased, and explain why similar items listed in the applicable Federal Supply Schedule will not meet the specific requirements. The purchasing office shall, within 15 days of the date of purchase, furnish the statement to the General Services Administration office issuing the Schedule.

(c) *Abnormal requirements.* When the requirements of the purchasing activity are (1) less than the minimum order limitation or (2) in excess of the maximum order limitation provided in the applicable Federal Supply Schedule, use of the Schedule is not mandatory. However, where requirements for supplies or services exceed the maximum limitations of the applicable Schedule, but are within the DOD–GSA Interagency Purchase Assignments, those items will be procured through the General Services Administration (see § 5.1201–7).

§ 5.106 Federal Supply Schedules with multiple source provisions.

(a) *General.* Certain of the Federal Supply Schedules, listed in § 5.102–3, provide several sources for certain requirements. Additionally, some such Schedules indicate that multiple sources are provided to make available a selection of supplies or services to meet a specific or an unusual requirement. When orders in excess of $2,500 are placed at other than the lowest Schedule price, the purchasing office shall include in the contract file a memorandum containing the facts justifying the order. The justification may be based on considerations such as delivery time and administrative expense. When the order is to fulfill a specific or an unusual need, it shall, in addition to any other basis for justification, state the unusual or specific requirements such as differences in performance characteristics, and compatibility with existing equipment or systems.

(b) *Procurement of articles of foreign origin for use in the United States.* When purchase of an item of foreign origin is specifically required, the using activity shall furnish the procuring activity sufficient information to permit the determinations required by Part 6 of this chapter to be made.

§ 5.107 Oral orders under Federal Supply Schedule contracts.

(a) *Oral orders not to exceed $2,500—*(1) *General.* Purchasing offices are authorized to make procurements not in excess of $2,500 by oral orders from Federal Supply Schedule contractors. Ordering activities shall obtain an agreement from the contractor that for each shipment under an oral order he will furnish a delivery ticket, in the number of copies required by each purchasing office, which shall contain the following information:

(i) Contract number;

(ii) Order number under the contract;

(iii) Date of order;

(iv) Name and title of the person placing order;

(v) Itemized listing of supplies or services furnished; and

(vi) Signature of person receiving the item.

(2) *Payment.* Optional methods of invoicing are permissible. An individual invoice accompanied by a receipted copy of the related delivery ticket may be submitted for payment. Alternatively, a summarized monthly invoice covering all oral orders made during the month, accompanied by a receipted copy of each delivery ticket, may be submitted for payment. The monthly billing procedure is preferred when numerous oral orders may be placed.

(b) *Imprest funds (petty cash method).* In buying commodities where cash payment is advantageous, the imprest funds method (see § 3.607 of this chapter) is authorized, provided the order does not exceed $100 ($250 under emergency conditions) and the contractor agrees to such a procedure.

§ 5.108 Administration of orders under Federal Supply Schedule contracts.

(a) *Responsibility of DOD activities.* DOD activities have primary responsibility for contract administration functions incident to the performance of orders under Federal Supply Schedule contracts and, unless otherwise specified in this section, shall deal directly with the contractor concerned. Such functions include:

(1) Inspection and acceptance of supplies and services (see Part 14 of this chapter);

(2) Modification of orders;

(3) Termination of orders for default and charging contractors with resulting excess costs; and

(4) Termination of orders for the convenience of the Government.

In the administration of orders under Federal Supply Schedule contracts, DOD activities shall be governed by the terms of the related contract as evidenced by the applicable Federal Supply Schedule and by the General Provisions for Federal Supply Schedule contracts.

(b) *Defective supplies or services.* If a Federal Supply Schedule contractor tenders delivery of defective supplies or services, the DOD activity pursuant to the Inspection clause contained in the Federal Supply Schedule contract, has the right to reject such defective supplies or services or to require their correction. If the contractor refuses to replace or correct within the required delivery schedule, the DOD activity then may require delivery of such defective supplies or services at an equitable reduction in price or may terminate the order in whole or in part for default. The DOD activity shall notify the General Services Administration regional office executing the contract of all significant incidents of delivery of defective supplies and services.

(c) *Termination for default—*(1) *General.* Purchasing offices may terminate for default orders under Federal Supply Schedule contracts and repurchase the terminated items against the contractors' accounts in accordance with the terms of the Default clause in the contracts and pursuant to the procedures set forth in Subpart F, Part 8 of this chapter. Purchasing offices do not have the authority to terminate the Federal Supply Schedule contract itself. Notices of termination for default shall be sent to all activities having copies of the order being terminated and to the GSA Regional Office which entered into the Federal Supply Schedule contract.

(2) *Repurchase against contractor's account.* When orders are terminated for default, the items, if listed on a mandatory schedule and still required, shall be recorded against another current applicable Federal Supply Schedule contract unless the repurchase can be made more economically from a source other than a supply schedule, price, delivery service and administrative expenses considered. If the item is not on a mandatory schedule, the repurchase shall be made at as reasonable a price as practicable considering the quality required by the Government and the time within which the supplies are required. Copies of all repurchased orders under a Federal Supply Schedule contract, except those furnished to the contractor or any other commercial concern, shall bear the notation: "Repurchase against the account of _____ under Contract _____". A repurchase against the account of a defaulted contractor shall contain the same accounting data as the terminated order, unless the appropriation cited thereon will not be available for expenditure on the repurchase contract or order, in which case the repurchase must be supported by a new purchase request.

(3) *Excess costs.* If the repurchase price is higher than the price of the supplies terminated, the purchasing office shall make a written demand on the contractor for the difference, giving due consideration to any increases or decreases in other ascertainable costs such as transportation and discounts, and shall request payment thereof to the Treasurer of the United States. The purchasing office shall forward the checks to the cognizant disbursing activity. If the defaulted contractor disputes his liability for excess costs, the purchasing office may postpone the assessment of such costs until the decision of the GSA contracting officer has been rendered (see paragraph (e) of this section) and any appeal therefrom has been decided. Copies of all correspondence relating to excess costs shall be sent to the GSA Regional Office which entered into the Federal Supply Schedule contract. Purchasing offices shall report unsuccessful attempts to collect excess costs to the Deputy Regional Director

of the Federal Supply Service, at the GSA Regional Office which executed the Federal Supply Schedule contract involved, which office will, in the absence of available offset in that office, submit such data to the General Accounting Office for collection. Reports shall be made within 60 days from the date of final payment to the new contractor from whom the repurchase was made. Such reports, which may be in letter form, shall include the following:

(i) Name of the defaulting contractor;
(ii) Contract number;
(iii) Order number;
(iv) Item number and description;
(v) Schedule price;
(vi) Amount of excess costs to be collected;
(vii) Name of the successor contractor;
(viii) Purchase price under the new contract;
(ix) Order number or numbers on which payment was made; and
(x) New contract number, if any.

(4) *Termination for default by the General Services Administration.* When notified by the General Services Administration that it has partially or completely terminated a Federal Supply Schedule contract for default, purchasing offices shall, as to the terminated items:

(i) Refuse to accept further performance from the contractor;
(ii) Place no further orders under the contract; and
(iii) Repurchase in such manner as may be directed by the General Services Administration.

(d) *Termination for convenience of the Government.* While Federal Supply Schedule contracts do not include a clause authorizing termination for convenience of the Government, DOD activities may terminate orders under such contracts when such action is in the best interests of the Government, as when the supplies are no longer needed. In contemplating such action, consideration should be given to the fact that the Government may be liable to the contractor for damages, particularly when the terminated supplies are not standard commercial items or "off-the-shelf" articles. Prior to terminating orders for the convenience of the Government, DOD activities shall consult legal counsel and shall endeavor to enter into a "no cost" cancellation agreement with the contractor. Notices of termination of orders for the convenience of the Government shall be in writing and be distributed to all activities having copies of the order and to the GSA Regional Office which entered into the Federal Supply Schedule contract.

(e) *Disputes.* All disputes concerning questions of fact arising under Federal Supply Schedule contracts which cannot be satisfactorily settled by the DOD activity and the contractor shall be decided, in accordance with the Disputes clause contained therein, by the cognizant General Services Administration contracting officer executing the contract.

19. Sections 5.200(a), 5.203, and 5.207 are revised; new § 5.208 is added; and §§ 5.303, 5.502, 5.504–1, and 5.505 are revised, as follows:

§ 5.200 Applicability.

* * * * *

(a) Any subsistence or medical item which is under the cognizance of the Defense Personnel Support Center; or

* * * * *

§ 5.203 General Services Administration stores depots and regional offices.

The General Services Administration operates stores depots and regional offices located in or near the cities listed below, serving the areas indicated on the back cover page of the "Stores Stock Catalog." The addresses shown are the mailing addresses to which all orders and correspondence should be forwarded.

GSA Region	*Address*
1. Boston, Mass.	620 Post Office and Court House Building, Boston, Mass., 02109.
2. New York, N.Y.	30 Church Street, New York, N.Y., 10007.
3. Washington, D.C.	General Services Regional Office Building, Seventh and D Streets SW., Washington, D.C., 20407.
4. Atlanta, Ga.	1776 Peachtree Street NW., Atlanta, Ga., 30309.
5. Chicago, Ill.	219 South Dearborn Street, Chicago, Ill., 60604.
6. Kansas City, Mo.	1500 East Bannister Road, Kansas City, Mo., 64131.
7. Dallas, Tex.	Post Office Box 2488, Fort Worth, Tex., 76101.
8. Denver, Colo.	Denver Federal Center, Building 41, Denver, Colo., 80225.
9. San Francisco, Calif.	49 Fourth Street, San Francisco, Calif., 94103.
10. Auburn, Wash.	General Services Administration Center, Auburn, Wash., 98002.

§ 5.207 Additional services.

In addition to the services listed in § 5.206, the General Services Administration regional offices have contracts, available to, but not mandatory on the Department of Defense, for the maintenance, repair, and rehabilitation of many categories of personal property such as fans, door closers, household appliances, water coolers, machine and hand tools, precision instruments, and radio equipment. General Services Administration regional offices will advise Department of Defense agencies as to existing contracts covering these services. Such optional contracts should be used when the contracting officer considers them to be in the best interests of the Government. The provisions of §§ 5.103 and 5.104 do not apply to the services covered by this section.

§ 5.208 Order for services.

Orders for repair or refinishing services from General Services Administration sources shall be placed as follows:

(a) *GSA repair facility.* A delivery order on Order for Supplies or Services (DD Form 1155) (see § 3.608–5 of this chapter) shall be submitted to the General Services Administration regional office which normally serves the procuring activity.

(b) *Federal Supply Schedules.* Delivery orders on DD Form 1155 will be placed directly with the Federal Supply Schedule contractors.

§ 5.303 Order for supplies or services.

Purchasing offices shall submit an order on DD Form 1155 to the General Services Administration Regional Office of the region in which the office is located when requesting purchase action in accordance with this subpart. Each such order placed with the National Buying Program of the General Services Administration shall be recorded as an obligation at the time the order is placed.

§ 5.502 Schedule of supplies which are blind-made.

Supplies manufactured by agencies for the blind are listed in the Schedule of Blind-Made Products, hereinafter referred to as the Schedule, copies of which may be obtained from any of the General Services Administration regional offices or depots listed in § 5.203. Requests for the Schedule shall be submitted on GSA Form 457 (see § 5.101). Items available from stocks at General Services Administration Stores Depots are so identified in the Schedule.

§ 5.504–1 Through National Industries for the Blind.

When procurement of blind-made supplies is to be made through the National Industries for the Blind, a letter request for an allocation (i.e., the designation of an agency to manufacture the supplies) shall be submitted directly to the National Industries for the Blind, 50 West 44th Street, New York, N.Y., 10036. Upon receipt of the request, requirements will be allocated by the National Industries for the Blind, and the purchasing office shall be notified of the name and location of the agency designated to manufacture the requirements. Upon receipt of such notification, a delivery order (DD Form 1155) shall be issued to the designated agency for the blind and a copy thereof shall be forwarded to the National Industries for the Blind. Such orders may be issued without limitation as to dollar amount and shall be recorded as obligations upon issuance.

§ 5.505 Clearances.

Except as provided in § 5.503(c), a purchasing office may procure supplies of the types listed in the Schedule from commercial sources only to the extent that such procurement is specifically authorized in clearances issued by National Industries for the Blind, and then only if purchase action is initiated within 30 days from the date of the authoriza-

tion or such additional period as may be authorized by the National Industries for the Blind. Where specifically authorized clearances are issued by National Industries for the Blind, a copy of the clearance shall be attached to the voucher to assure approval by the General Accounting Office.

20. New §§ 5.507, 5.704, 5.704–1, and 5.704–2 are added, as follows:

§ 5.507 Procurement of services from agencies for the blind.

(a) Services, as distinguished from supplies, shall not be procured pursuant to the procedure in § 5.501 which does not apply to labor or services or anything other than tangible articles produced by the blind. The renovation of cotton felt mattresses is considered a tangible article of supply.

(b) Agencies for the blind may be solicited in connection with proposed procurements of services but contracts must be awarded pursuant to normal contracting procedures.

(c) When it is known that agencies for the blind are qualified to furnish services, requests for bids or proposals shall be forwarded to:

National Industries for the Blind
50 West 44th Street
New York, N.Y. 10036
Area Code: 212 Phone: TN 7–5252

§ 5.704 Procurement from Atomic Energy Commission.

§ 5.704–1 General.

Sections 5.704—5.704–2 cover the procurement of material and supplies from the Atomic Energy Commission (AEC).

§ 5.704–2 Procurement of radioisotopes.

(a) AEC Form 375, "U.S. AEC Isotope Order Blanks", and AEC Form 313, "AEC Application for Byproducts Material License", shall be used for the procurement of radioisotopes from any of the three AEC laboratories listed on the back of AEC Form 375. No other type of order blank, purchase order, or contract shall be used in lieu of these forms.

(b) In the procurement of radioisotopes, AEC Form 313 shall be filed with the Isotope Division, U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, Tenn. If the application meets all regulatory requirements and applicable standards, AEC Form 374, "U.S. Atomic Energy Commission By Products Material License", will be issued to the applicant by the Isotope Division, Atomic Energy Commission. After receipt of the AEC Form 374, a complete AEC Form 375 (in duplicate, if the purchasing office desires to receive an accepted copy of the form back from the supplier), the license (AEC Form 374), and a Standard Form 1103, "U.S. Government Bill of Lading," shall be sent to the appropriate AEC laboratory. If a bill of lading is not furnished, shipment shall be made collect on a commercial bill of lading, to be converted at destination.

(c) The "Terms and Conditions" on the reverse side of the AEC Form 375 shall control all requisitions for radioisotopes purchased by the Military Departments from the Atomic Energy Commission National Laboratories. Accordingly, if applicable, the "Terms and Conditions" on the reverse side of AEC Form 313 shall be deleted.

(d) AEC Form 313, "AEC Application for By Products Material License", and AEC Form 375, "U.S. AEC Isotope Order Blank", shall be requisitioned directly from:

U.S. Atomic Energy Commission
Attn: Isotopes Branch
Division of Licensing and Regulation
Washington, D.C. 20545

PART 7—CONTRACT CLAUSES

21. New §§ 7.104–55 and 7.104–56 are added; the introductory text in §§ 7.106–3 and 7.106–4 is revised; and new §§ 7.204–39, 7.204–40, 7.303–39 and 7.303–40 are added, as follows:

§ 7.104–55 First article approval.

In accordance with Subpart S, Part 1 of this chapter, insert the appropriate clause set forth in § 1.1906 of that subpart.

§ 7.104–56 Order of precedence.

The following clause, which may be modified to change the order or to add or delete items to meet the needs of a particular procurement, shall be included in all contracts which are not preceded by a written solicitation (see §§ 2.201(b)(22) and 3.501(b)(49) of this chapter):

ORDER OF PRECEDENCE (AUGUST 1965)

In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) The Schedule; (b) General Provisions; (c) the other provisions of the contract whether incorporated by reference or otherwise; and (d) the Specifications.

§ 7.106–3 Escalation clause for standard supplies.

The following price escalation clause is authorized for use in negotiated fixed-price supply contracts for standard supplies for which established prices exist and have been verified in accordance with criteria in § 3.807–1(b)(2) of this chapter. The clause may be used only when the total contract price is over $5,000 and delivery is not to be completed within 6 months after the contract date. The percentage figure to be used in subparagraph (d)(3) of the clause shall not exceed 10 percent. If any standard trade discounts offered by the contractor against his list or catalog price are taken into account in negotiating the contract unit price, the contracting officer's file should contain a statement setting forth the list or catalog price and the discounts. The discounts referred to do not include prompt payment or cash discounts.

§ 7.106–4 Escalation clause for semistandard supplies.

The following price escalation clause is authorized for use in negotiated fixed-price supply contracts for semistandard supplies, the prices of which can be reasonably related to the prices of nearly equivalent standard supplies for which established prices exist and have been verified in accordance with criteria in § 3.807–1(b)(2) of this chapter. The clause may be used only when the total contract price is over $5,000 and delivery is not to be completed within 6 months after the contract date. A clear understanding should be set forth in writing prior to making the contract as to the identity of the standard supply items which are applicable. The percentage figure to be used in subparagraph (d)(3) of the clause shall not exceed 10 percent. If any standard trade discounts offered by the contractor against his list or catalog price are taken into account in negotiating the contract unit price, the contracting officer's file should contain a statement setting forth the list or catalog price and the discounts. The discounts referred to do not include prompt payment or cash discounts. When the supplies being purchased are standard supplies in all respects except for preservation, packaging, and packing requirements, the following clause should not be used; in such cases the escalation clause for standard supplies, in § 7.106–3, is the appropriate clause.

§ 7.204–39 First article approval.

In accordance with Subpart S, Part 1 of this chapter, insert the appropriate clause set forth in § 1.1906 of that subpart, modified for use in cost-reimbursement type contracts.

§ 7.204–40 Order of precedence.

In accordance with § 7.104–56, insert the clause set forth therein.

§ 7.303–39 First article approval.

In accordance with Subpart S, Part 1 of this chapter, insert the appropriate clause set forth in § 1.1906 of that subpart.

§ 7.303–40 Order of precedence.

In accordance with § 7.104–56, insert the clause set forth therein.

22. New §§ 7.403–34, 7.403–35, and 7.504–5 are added; in § 7.702–12, the clause heading, clause paragraph (b)(3) and clause paragraph (d) are revised; and new §§ 7.705–15, 7.902–21, and 7.1003–12 are added, as follows:

§ 7.403–34 First article approval.

In accordance with Subpart S, Part 1 of this chapter, insert the appropriate clause set forth in § 1.1906 of that subpart, modified for use in cost-reimbursement type contracts.

§ 7.403–35 Order of precedence.

In accordance with § 7.104–56, insert the clause set forth therein.

§ 7.504–5 Order of precedence.

In accordance with § 7.104–56, insert the clause set forth therein.

§ 7.702–12 Use and charges.

USE AND CHARGES (JULY 1965)

* * * * *

(b) * * *

(3) The Contractor shall submit to the Contracting Officer within ninety (90) days after the close of each rental period a written

statement of the use made of the Facilities by the Contractor and the rental due the Government hereunder, and shall make available such records and data as are determined by the Contracting Officer to be necessary to verify the information contained in the statement.

* * * * *

(d) Concurrently with the submission of the written statement prescribed by paragraph (b)(3) above, the Contractor shall pay the rental due the Government under this clause by check made payable to the Treasurer of the United States. Each check shall be mailed or delivered to the Contracting Officer.* Receipt and acceptance by the Government of the Contractor's checks pursuant to this paragraph shall constitute an accord and satisfaction of the final amount due the Government hereunder unless the Contractor is notified in writing within one hundred eighty (180) days following such receipt that the amount received is not regarded by the Government as the final amount due.

* * * * *

§ 7.705–15 Order of precedence.

In accordance with § 7.104–56, insert the clause set forth therein.

§ 7.902–21 Order of precedence.

In accordance with § 7.104–56, insert the clause set forth therein.

§ 7.1003–12 Order of precedence.

In accordance with § 7.104–56, insert the clause set forth therein.

23. A new Subpart K is added to this part, as follows:

Subpart K—Clauses for Indefinite Delivery Type Contracts

Sec.

AUTHORITY: The provisions of this Subpart K issued under sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 7.1100 Scope of subpart.

This subpart sets forth special uniform contract clauses for indefinite delivery type contracts as defined in § 3.409 of this chapter. These clauses are to be used in addition to other required or applicable clauses.

§ 7.1101 Required clause—ordering.

The clause set forth below shall be inserted in indefinite delivery type contracts.

ORDERING (AUGUST 1965)

(a) Supplies or services to be furnished under this contract shall be ordered by the issuance of delivery orders by the _____ (activity)

(b) All delivery orders issued hereunder are subject to the terms and conditions of this contract. This contract shall control in the event of conflict with any delivery order. If desired and appropriate, a provision for the placing of oral orders may be added to the contract: *Provided*, That procedures have been established for obligating funds.

§ 7.1102 Clauses to be used when applicable.

§ 7.1102–1 Definite quantity contracts.

Insert substantially the following clauses.

(a) *Delivery order limitations.*

DELIVERY ORDER LIMITATIONS (AUGUST 1965)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than _____, the Government shall not be obligated to purchase, nor the contractor obligated to furnish, any supplies or services under this contract.

(b) *Maximum order.* The Contractor shall not be obligated to honor:

(i) any order for a single item in excess of _____;

(ii) any order for a combination of items in excess of _____; or

(iii) a series of orders from the same ordering office in the course of _____ days which in the aggregate call for quantities of items to the extent that the aggregate is in excess of the limitations provided in (i) and (ii) above.

(c) Notwithstanding the foregoing, the Contractor shall honor any order received which exceeds the maximum order limitations set forth above unless the order or orders which exceed the maximum limitations are returned to the issuing office within _____ days from the date of issue thereof, together with written notice of intent not to make shipment of the items called for and the reasons therefor. Upon receipt of this notice, the Government may secure the supplies from another source.

(b) *Definite quantity.*

DEFINITE QUANTITY (AUGUST 1965)

(a) This is a definite quantity, indefinite delivery contract for the supplies or services specified in the Schedule, and for the period set forth therein.

(b) The Government shall order the quantity of supplies or services specified in the Schedule, and the Contractor shall furnish those supplies or services when ordered by the Government. Delivery or performance shall be made to locations to be designated by the Government in orders issued in accordance with the clause entitled "Ordering" set forth in the Schedule. There shall be no limitation as to the number of orders which may be issued, subject to any limitations on quantities set forth in the clause of this contract entitled "Delivery Order Limitations", if any, or in the Schedule.

(c) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order, and the rights and obligations of the Contractor and the Government respecting that order shall be governed by the terms of this contract as fully and to the same extent as if completed during the effective period of this contract: *Provided*, That the Contractor shall not be required to make any deliveries under this contract after _____ (date)

(d) The Government may issue orders which require delivery to or performance at multiple destinations.

§ 7.1102–2 Requirements contracts.

(a) *Delivery order limitations.* Insert substantially the clause set forth in § 7.1102–1(a), adding the following paragraph:

(d) The Government is not required to order a part of any one requirement from the Contractor when such requirement exceeds the maximum order limitations set forth in (b) above.

(b) *Requirements.*

REQUIREMENTS (AUGUST 1965)

(a) This is a requirements contract for the supplies or services specified in the Schedule, and for the period set forth therein. Delivery of supplies or performance of services shall be made only as authorized by orders issued in accordance with the clause entitled "Ordering". The quantities of supplies or services specified herein are estimates only, and are not purchased hereby. Except as may be otherwise provided herein, in the event the Government's requirements for supplies or services set forth in the Schedule do not result in orders in the amounts or quantities described as "estimated" or "maximum" in the Schedule, such event shall not constitute the basis for an equitable price adjustment under this contract.

(b) Except as otherwise provided in this contract, the Government shall order from the Contractor all the supplies or services set forth in the Schedule which are required to be purchased by the Government activity identified in the "Ordering" clause.

(c) The Government shall not be required to purchase from the Contractor, requirements in excess of the limit on total orders under this contract, if any.

(d) Orders issued during the effective period of this contract and not completed within that time shall be completed by the Contractor within the time specified in the order, and the rights and obligations of the Contractor and the Government respecting those orders shall be governed by the terms of this contract to the same extent as if completed during the effective period of this contract: *Provided*, That the Contractor shall not be required to make any deliveries under this contract after _____ (date)

(e) If delivery of any quantity of an item covered by the contract is required by reason of urgency prior to the earliest date that delivery may be specified under this contract and if the Contractor will not accept an order providing for the accelerated delivery, the Government may procure this requirement from another source.

(f) The Government may issue orders which provide for delivery to or performance at multiple destinations.

(1) When it is desired to use a requirements contract for nonpersonal services and supplies incidental thereto, covering requirements estimated to be in excess of a specific activity's internal capabilities of performance, the following shall be inserted in paragraph (a) of the clause after the third sentence:

These quantities are not the total requirements of the activity named in the Schedule; they are estimates of requirements in excess of the quantities which such activity may itself furnish within its own capabilities.

Delete paragraph (b) of the clause and substitute the following:

(b) Except as otherwise provided in this contract, the Government shall order from the Contractor all the requirements for supplies and services of the Government activity named in the Schedule in excess of the quantities which the activity may itself furnish within its own capabilities.

*In contracts of the Department of the Navy, insert "U.S. Navy Regional Finance Office, Washington, D.C." in lieu of "the Contracting Officer".

(2) When subsistence requirements for both troop issuance and resale have been included in the same Schedule and it is contemplated that similar products will be procured on a "brand name" basis, include the following paragraph (g) in the clause set forth above:

(g) The requirements referred to in this contract are for items to the manufactured according to Government specifications, and notwithstanding anything to the contrary stated herein, the Government may procure similar products by "brand name" for resale purposes from other sources.

(3) Where a requirements type contract is used to procure work (e.g., repair, modification, overhaul) on existing items of Government property, it shall be specifically stated in the Schedule that failure of the Government to furnish such items in the amounts or quantities described as "estimated" or "maximum" in the Schedule will not entitle the contractor to any equitable adjustment in price under the "Government Property" clause of such contract.

(c) *Area requirements.* A clause similar to the following may be used when it is not known where the supplies or services will be required.

AREA REQUIREMENTS (AUGUST 1965)

Each item is divided into two (2) sub-items. Sub-item A is for delivery of the item to destinations East of the Mississippi River within the Continental United States. Sub-item B is for delivery of the item to destinations West of the Mississippi River within the Continental United States, excluding Alaska. With respect to each item, the Government shall order, except as hereinafter set forth, all the purchase requirements of _____ which are for delivery to
(activity)
any destination East of the Mississippi River, from the Contractor awarded sub-item A, and shall order all of its purchase requirements for delivery to any destination West of the Mississippi River from the Contractor awarded sub-item B.

§ 7.1102–3 Indefinite quantity contract.

(a) *Delivery order limitations.* Insert the clause set forth in § 7.1102–1(a).

(b) *Indefinite quantity.*

INDEFINITE QUANTITY (AUGUST 1965)

(a) This is an indefinite quantity contract for the supplies or services specified in the Schedule and for the period set forth therein. Delivery or performance shall be made only as authorized by orders issued in accordance with the "Ordering" clause of this contract. The quantities of supplies or services specified herein are estimates only and are not purchased hereby.

(b) The Contractor shall furnish to the Government, when and if ordered, the supplies or services set forth in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order the quantity of supplies or services designated in the Schedule as the "minimum".

(c) Orders issued during the effective period of this contract and not completed within that time shall be completed by the Contractor within the time specified in the order, and the rights and obligations of the Contractor and the Government respecting those orders shall be governed by the terms of the contract to the same extent as if completed during the effective period of this contract: *Provided*, That the Contractor shall not be required to make any deliveries under this contract after _____.
(date)

(d) The Government may issue orders which provide for delivery to or performance at multiple destinations.

PART 9—PATENTS, DATA, AND COPYRIGHTS

24. Sections 9.111(b) and 9.202–3(d) are revised as follows:

§ 9.111 Adjustment of royalties.

* * * * *

(b) For guidance in evaluating information furnished pursuant to § 9.110 and to paragraph (a) of this section see § 15.205–36 and § 15.309–33 of this chapter. Also see § 15.107 regarding advance understandings on particular cost items, including royalties.

§ 9.202–3 Procedures.

* * * * *

(d) *Technical data furnished on a restricted basis in support of a proposal.* When, in response to a request for a proposal, an offeror submits technical data on a restricted basis in accordance with § 3.507 of this chapter and it is contemplated to award the contract to such offeror, the contracting officer will ascertain whether to acquire rights to use all or part of the technical data furnished with the proposal. If such rights are desired, the contracting officer will negotiate with the offeror in accordance with the policies set forth in §§ 9.202—9.202–3. If the offeror agrees to furnish such technical data under the contract, the appropriate clause set forth in § 9.203 shall be inserted in the contract, and the contract shall identify the data to be covered by such a clause.

PART 12—LABOR

25. Sections 12.101–3(b) (1) and (2) and (d), 12.401(d), and 12.604 are revised to read as follows:

§ 12.101–3 Reporting of labor disputes.

* * * * *

(b) * * *

(1) *Reports involving Army contracts.* Reports shall be submitted to the Head of the Procuring Activity concerned with information copies to intermediate procurement offices. Simultaneously, copies of each report shall be sent directly to the Assistant Secretary of the Army (Installations and Logistics), ATTN: Labor Advisor, and to ODCSLOG, ATTN: Chief, PEMA Execution Division.

(2) *Reports involving Navy contracts.* Reports shall be submitted simultaneously to the Chief of Naval Material, ATTN: Labor Relations Advisor; Head of the Procuring Activity concerned; cognizant contracting officers; inspection offices concerned; status control activities; and the Director, Transportation Division (H1), Bureau of Supplies and Accounts, when contracts involve (i) packing, crating, and drayage of household goods; and (ii) stevedoring services at naval activities.

* * * * *

(d) In cases where the responsible individual originating the report is outside the Military Department which placed the contract, he shall give notice to the procuring office (which shall process the notice in accordance with paragraph (b) of this section) and to the appropriate Departmental headquarters labor relations office (for the Army, the Labor Advisor, OASA (I&L); for the Navy, Chief of Naval Material, ATTN: Labor Relations Advisor; for the Air Force, Headquarters USAF, AFSPPDB; for Defense Supply Agency, Labor Advisor, DSA).

* * * * *

§ 12.401 Statutes, regulations, and determinations.

* * * * *

(d) *Department of Labor regulations.* Pursuant to the foregoing statutes and Reorganization Plan No. 14 of 1950, the Secretary of Labor has issued Regulations, Part 3, Title 29, Subtitle A, Code of Federal Regulations and Regulations, Part 5, Title 29, Subtitle A, Code of Federal Regulations, providing for the administration and enforcement of these statutes in construction contracts. Each Department shall comply with the regulations, rulings, interpretations and decisions of the Department of Labor issued pursuant to the above provisions unless other action is specifically authorized in advance by OASD (Manpower). In any case where resolution of a question by higher authority is deemed appropriate, such question shall be submitted, in the case of the Army, to the Labor Advisor, Office of the Assistant Secretary of the Army (Installations and Logistics); in the case of the Navy, to the Office of Naval Materiel, ATTN: Labor Relations Advisor; in the case of the Air Force, to the Deputy Chief of Staff (Systems and Logistics), ATTN: AFSPM; and, in the case of the Defense Supply Agency, to the Executive Director for Procurement and Production, ATTN: DSAH–PL.

* * * * *

§ 12.604 Responsibilities of contracting officers.

The responsibility for applying the eligibility requirements set forth in §§ 12.601 and 12.603 rests, in the first instance, with the contracting officer. The Department of Labor does not conduct pre-award investigations, nor render final determinations of eligibility until the contracting officer has initially determined whether the eligibility requirements have been met. When the eligibility of a bidder or offeror is challenged before award, it should be treated in a manner similar to a protest before award (see §§ 2.407–9 and 3.509 of this chapter). The contracting officer should make an initial determination and should process the protest in accordance with applicable procedures for submission to the Department of Labor for a final determination. Whenever the Walsh-Healey Public Contracts Act is applicable, the contracting officer shall, pursuant to regulations or instructions issued by the Secretary of Labor and in

accordance with procedures prescribed by each respective Military Department:

(a) Inform prospective contractors of the applicability of minimum wage determinations;

(b) Furnish to the contractor a poster (Form PC–13) and a form letter (Form PC–12) explaining the Walsh-Healey Act (forms are available through normal publication supply channels);

(c) Prepare and transmit three copies of DD Form 350 as provided in § 16.803–2 (c) of this chapter; when a contract of $10,000 or less is modified to exceed $10,000, the report on DD Form 350 shall be prepared and transmitted.

(d) Report to the Department of Labor any violation of the representations or stipulations required by the Walsh-Healey Act.

PART 13—GOVERNMENT PROPERTY

26. In § 13.305–2, paragraphs (c) and (d) are revised, and new paragraph (e) is added; and in § 13.704, the clause heading and clause paragraph (j) are revised, as follows:

§ 13.305–2 Fixed-price contracts.

* * * * *

(c) *Criteria for waiving special tooling provisions in subcontracts.* In determining whether rights to acquire special tooling from subcontractors are not of substantial interest to the Government so as to permit the omission of special tooling provisions from the affected subcontracts pursuant to paragraph (j) of the Special Tooling clause set forth in 13–704, the contracting officer shall consider the factors listed in (b) above. It is desirable that such determination be made before execution of the contract, to the extent practicable, in which case the price shall reflect the authorized omission of special tooling provisions in any affected subcontract. If this question is presented to the contracting officer after execution of the contract, he shall condition his determination upon securing the contractor's consent to an equitable reduction in the contract price to reflect any reduction in the price of the affected subcontracts resulting from the omission of such provisions.

(d) *Procedures.* (1) If the contracting officer has decided not to acquire special tooling or rights thereto, he may include in the solicitation such information as he may have of current planning for future procurements of the item involved, consistent with security requirements. Offerors shall be advised in the solicitation that such statements are estimates and there is no assurance that any quantity will be procured.

(2) In formally advertised procurements, each item of special tooling to be acquired by the Government under the standards set forth above shall be clearly identified in the invitation for bids as a separate item, or by category if individual items are low in value, and the Special Tooling clause in 13–704 shall not be used.

(3) In negotiated procurements, each item of special tooling to be acquired under the standards set forth above shall be identified as a separate item in the solicitation and contract to the maximum extent practicable, or by category if individual items are low in value. If such identification is impracticable, title to special tooling may be obtained through use of the Special Tooling clause in 13–704. If the use of this clause will result in an undesirable acquisition of rights to some special tooling, the Schedule shall specify the special tooling not covered by the clause.

(e) *Protecting Government interest in contractor-owned special tooling.* Where the Government does not acquire special tooling or the rights thereto pursuant to paragraph (d) of this section, but will pay for a substantial portion of the special tooling in the price paid for supplies or services, special provisions may be included in the Schedule of a contract to give recognition to the equitable interest of the Government in the special tooling, if such interest is significant. For example:

(1) Where there is a distinct possibility that the Government eventually may decide to acquire title to the special tooling, the contract may provide for an option in the Government to acquire the special tooling at a specified price or for an amount to be determined in accordance with specified standards (the criteria set forth in paragraph (b) of this section shall be considered in exercising such options); or

(2) If the Government does not acquire or reserve the right to acquire title to the special tooling, the contract may provide for the contractor's future amortization of the special tooling under Government contracts.

§ 13.704 Special tooling clause for fixed-price contracts.

* * * * *

SPECIAL TOOLING (AUGUST 1965)

* * * * *

(j) *Special tooling provisions for subcontracts.* The Contractor agrees that, in placing any subcontracts or purchase orders under this contract which involve the use of special tooling, the full cost of which is charged to such subcontract or purchase order, he will include therein appropriate provisions to obtain rights comparable to those granted to the Government by this clause, unless the Contracting Officer determines, upon the Contractor's request, that, with respect to any subcontract, purchase order, or class thereof, such rights are not of substantial interest to the Government. The Contractor further agrees that he will exercise any such rights for the benefit of the Government as the Contracting Officer may direct.

PART 15—CONTRACT COST PRINCIPLES AND PROCEDURES

27. Section 15.205–22(e) is revised, as follows:

§ 15.205–22 Material costs.

* * * * *

(e) Allowance for all materials and supplies produced by the contractor or by any division, subsidiary or affiliate of the contractor under common control (hereinafter collectively referred to as the "seller") shall be on the basis of the costs incurred in accordance with this subpart, except as follows: Where the item is regularly manufactured or is one of a line of products regularly manufactured by the seller and is substantially the same as one normally produced by and available from one or more outside sources in the open market in significant quantity (quality and other performance factors considered), allowance may be on a price basis not to exceed the lesser of the current market price or the seller's current sales price to its most favored customer (including any division, subsidiary or affiliate of the contractor under common control) for a like quantity of the item when one of the following conditions is met:

(1) The item qualifies as a "commercial item sold in substantial quantities to the general public" as defined in § 3.807–1(b)(2)(ii) through (iv) of this chapter; or

(2) The seller submits the lowest evaluated bid or proposal under conditions of "adequate price competition" as defined in § 3.807–1(b)(1)(i) and (ii) of this chapter.

Such price as may be determined in accordance with the foregoing may be adjusted upward or downward to reflect the actual cost of modification of the item by the seller for the purposes of the contract.

PART 16—PROCUREMENT FORMS

28. Sections 16.101, 16.101–1, and 16.101–2 are revised; §§ 16.102, 16.102–1, and 16.102–2 are revoked; §§ 16.206–2 and 16.207–2 are revised; § 16.207–3 is revoked; § 16.504 is revised; and new § 16.817 is added, as follows:

§ 16.101 Combination Type (Standard Forms 33, 33–A, 32, 26, and 36 and DD Form 1260).

§ 16.101–1 General.

The following supply contract forms shall be used in effecting procurements by formal advertising:

(a) Invitation, Bid, and Award (Supply Contract) (Standard Form 33);

(b) Bidding Instructions, Terms, and Conditions (Supply Contract) (Standard Form 33–A);

(c) General Provisions (Supply Contract) (Standard Form 32);

(d) Any other special terms for the invitation for bids or additional contract provisions which are prescribed by this subchapter or Departmental procedures (Note.—The Federal, State, and Local Taxes clause at § 11.401–1 of this chapter shall be used as a part of Standard Form 32, when that standard form is used in any advertised procurement or in any of the other circumstances set forth in § 11.401–1. When a standard form is used in a negotiated fixed-price type contract in excess of $10,000 where the contracting officer is not satisfied that the contract price, virtue of competition or otherwise, excludes contingencies for State and local taxes, the Federal, State, and Local Taxes clause at § 11.401–2 shall

be made a part of the contract, and the clause at § 11.401–1 shall be deleted from Standard Form 32.);

(e) Continuation Sheet (Supply Contract) (Standard Form 36) (when needed with Standard Forms 33 and 33–A or 26 or DD Form 1260);

(f) Amendment to Invitation for Bids (DD Form 1260) when needed; and

(g) Award (Supply Contract) (Standard Form 26) when needed.

§ 16.101–2 Conditions for use.

(a) The Invitation, Bid, and Award (Standard Form 33) and the Schedule portion of Standard Form 33 shall be prepared in accordance with § 2.201 of this chapter. One copy of Standard Form 33–A shall accompany each copy of Standard Form 33. Bidders shall be requested to return only three signed copies of their bids.

(b) Standard Form 32 and any additional general provisions may be attached to each copy of the Invitation for Bids. Alternatively, only one copy of Standard Form 32 and any additional general provisions need be furnished to each bidder, for retention, if such provisions are specifically incorporated by reference, including each form name, number and date, in the Schedule. Provisions which are inapplicable to a particular procurement, or to military procurements generally may be deleted by appropriate reference in an "Alterations in Contract" clause.

(c) Award of contracts shall be accomplished by completing the Award portion of Standard Form 33 and furnishing a copy of the form, so completed, to each successful bidder. Alternatively, such award may be accomplished by furnishing a completed Standard Form 26 to each successful bidder. Papers previously forwarded to bidders need not accompany the successful bidder's copy of the Award document. The required use of the Award portion of Standard Form 33 or the use of Standard Form 26 does not preclude the additional use of informal documents, including telegrams, as notices of awards.

(d) DD Form 1260 (Amendment to Invitation for Bids) shall be used when it is necessary to issue an amendment.

(e) Continuation Sheet (Supply Contract) (Standard Form 36) shall be used when additional space is required for the Schedule, Amendment, or Award.

§ 16.102 Combination type (Standard Form 33). [Revoked]

§ 16.102–1 General. [Revoked]

§ 16.102–2 Conditions for use. [Revoked]

§ 16.206–2 DD Form 633 (Contract Pricing Proposal).

DD Form 633 shall be used whenever cost analysis is required: *Provided, however*, That departures from the DD Form 633 format are authorized in the following circumstances:

(a) The contractor may submit necessary information in a format acceptable to the contracting officer where the contractor's accounting system makes the use of this form impracticable; or when required for a more effective and efficient presentation of cost or pricing information: *Provided*, That in either case the information furnished includes pertinent details as to cost elements with the specific statements, authorizations, and authentications, required by DD Form 633 or by the special cost or price analysis forms listed in § 16.206–3; or

(b) The Special Cost and Price Analysis Forms referenced in § 16.206–3 may be used.

§ 16.207–2 Conditions for use.

(a) DD Form 784 shall be prepared by the contractor for the submission of cost information required for contract price redetermination except in those instances where the contractor and the contracting officer have agreed upon an alternate method of cost analysis presentation. Any alternate method used shall include, to the maximum degree possible, the information called for by DD Form 784. During the negotiation which may result in a redeterminable or incentive type contract, the contractor shall be advised of the requirement for the use of DD Form 784 or the alternate method and this requirement shall be contained in the contract.

(b) DD Form 783 (Royalty Report (Foreign and Domestic)) is approved for use as the separate schedule required by paragraph (p) of Specific Instructions of DD Form 784.

§ 16.207–3 Forms superseded. [Revoked]

§ 16.504 Forms for Paid Advertisements (DD Form 1535 and Standard Forms 1143 and 1143a).

(a) DD Form 1535 (Request/Approval for Authority to Advertise) shall be used in requesting authority to place advertisements in newspapers (see § 1.1002–6 of this chapter).

(b) The following forms shall be used to order and effect payment for advertisements in newspapers (see § 1.1002–6):

(1) Standard Form 1143, Advertising Order (original) (face) Public Voucher for Advertising (original) (reverse); and

(2) Standard Form 1143a, Advertising Order (memorandum) (face) Public Voucher for Advertising (memorandum) (reverse).

§ 16.817 Abstract forms.

DD Forms 1501, 1501c, and 1501–1, Abstract of Bids, shall be used to record the bid or proposal evaluation information as required in §§ 1.308, 2.403, and 3.109 of this chapter. These forms may be modified by using the extra columns and the continuation sheet to label and record such information as the procuring activity deems necessary.

PART 17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

29. Sections 17.207–1(a), 17.207–3(a), 17.208–4(b), and 17.304 are revised, as follows:

§ 17.207–1 Filing requests.

* * * * *

(a) In the Army, the Head of Procuring Activity listed in § 1.201–14 of this chapter appearing to be cognizant of the contract or commitment involved;

* * * * *

§ 17.207–3 Records.

* * * * *

(a) Army activities, to the Army Contract Adjustment Board, Office of the Assistant Secretary of the Army (Installations and Logistics);

* * * * *

§ 17.208–4 Processing by contract adjustment boards.

* * * * *

(b) *Records.* When the Board decisions are implemented, the documents listed in § 17.208–2(b) (2) and (3) shall be prepared and submitted to the cognizant Board. The activity which forwarded the case to the Board shall be responsible for the preparation and submission of these documents.

§ 17.304 Records.

The respective Contract Adjustment Boards in the Army, Navy and Air Force; and Headquarters, Defense Supply Agency, shall be responsible for maintaining two copies of each Memorandum of Approval required by § 17.303(b).

PART 18—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

30. Sections 18.206, 18.208, and 18.209 are revised to read as follows:

§ 18.206 Amendment of invitation for bids.

See §§ 2.208, 16.401–1(h), and 12.404–2 of this chapter. When an amendment will require additional time for bidders to prepare bids, the time for bidding shall be appropriately extended, except in emergencies, and consideration shall be given to notifying bidders by telephone or telegraph of the forthcoming amendment to minimize disruption of their bid preparations. Where such an amendment is issued within a period of 10 days prior to the date set for bid opening, a minimum of 10 days lead time, except in emergencies, shall be allowed prospective bidders to prepare new or revised bids. The nature of any emergency preventing a 10-day lead time will be documented.

§ 18.208 Cancellation of invitations for bids.

(a) Before opening, see § 2.209 of this chapter.

(b) After opening, see §§ 2.404–1 and 2.404–2 of this chapter.

§ 18.209 Prequalification of bidders.

(a) The prequalification of bidders' procedure is used when it is necessary to assure timely and efficient performance of critical construction projects by

limiting bidding to concerns of proven competence to perform in the required manner. The result of a prequalification is a list of bidders who are determined to be qualified to bid on a specific construction project.

(b) The Head of a Procuring Activity may authorize the prequalification of bidders when he determines in writing that a construction project is of such urgency or complexity as to require prequalification.

(c) Procedures to be used shall be approved by the Head of a Procuring Activity. They shall provide, in connection with small business concerns that:

(1) If the qualifying authority is of the opinion that a small business concern is not qualified for reasons relating solely to capacity or credit, the recommendation of the appropriate Small Business Regional Office shall be requested;

(2) If that office expresses the opinion that the concern appears to have the requisite capacity or credit, it shall be permitted to submit a bid; and

(3) If a small business concern submits the lowest responsive bid and is found to be nonresponsible because of lack of capacity or credit, the procedures prescribed by § 1.705–4 of the chapter shall be followed.

[Rev. 12, ASPR, Aug. 1, 1965] (Sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 65–11985; Filed, Nov. 8, 1965; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 14 (Rev. 3)]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Sound Book Value

Pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85–699, 72 Stat. 694, as amended, there is amended, as set forth below, Part 107 of Subchapter B, Chapter I of Title 13 of the Code of Federal Regulations, as revised in 29 F.R. 16946–16961, and amended in 30 F.R. 534, 1187, 2652, 2653, 2654, 3635, 3856, 7597, 7651, 8775, 8900, 11960, and 13005 by adding § 107.1024.

Information and effective date. The amendment published herewith sets forth, as § 107.1024 of the SBIC Regulation, an official interpretation clarifying the term "sound book value" as defined in § 107.505(a).

Since it merely interprets existing provisions of the Regulation and is exempt from the rule-making requirements of the Administrative Procedure Act (5 U.S.C. 1003), the present amendment shall become effective upon publication in the FEDERAL REGISTER.

The Regulations Governing Small Business Investment Companies are hereby amended by adding a new § 107.1024, which reads as follows:

§ 107.1024 Sound book value (interpreting § 107.505).

(a) Sections 107.502 through 107.508 dealing with Equity Securities contemplate that the specific terms of the financing shall be negotiated between the Licensee and the small business concern.

(b) The term "sound book value" as defined in § 107.505(a) means a price determined through negotiation of the parties. "Sound book value" is not synonymous with book value as determined by generally accepted accounting principles. It is arrived at through a meeting of the minds taking into account all pertinent factors including, but not restricted to, those specified in § 107.505(a).

Dated: November 3, 1965.

ROSS D. DAVIS,
Executive Administrator.

[F.R. Doc. 65–12018; Filed, Nov. 8, 1965; 8:48 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show the exception under Schedule C of two positions of Confidential Secretary to the Assistant Secretary for Health and Scientific Affairs. Effective on publication in the FEDERAL REGISTER, paragraph (h), subparagraph (1) is added to § 213.3316 as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(h) *Office of the Assistant Secretary for Health and Scientific Affairs.* (1) Two Confidential Secretaries to the Assistant Secretary for Health and Scientific Affairs.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 65–12027; Filed, Nov. 8, 1965; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM ACREAGE ALLOTMENTS AND MARKETING QUOTAS

[Amdt. 18]

PART 724—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52) CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) AND MARYLAND TOBACCO

Subpart—Allotment and Marketing Quota Regulations, 1963–64 and Subsequent Years

MISCELLANEOUS AMENDMENTS

Basis and purpose. (a) The amendments contained herein are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), and are made for the purpose of amending the Tobacco Allotment and Marketing Quota Regulations for the 1963–64 and Subsequent Marketing Years (27 F.R. 8937, 9211, 10743; 28 F.R. 7757, 8018, 9144, 11049; 29 F.R. 1315, 6520, 7588, 7763, 9927, 12420, 14099, 14661; 30 F.R. 823, 6146, 7646, 9147, 10283). The amendments relate to the identification of tobacco for purposes of marketing restrictions and price support, and the records and reports incident thereto on the marketing of the 1965 and subsequent crops of burley, fire-cured, dark air-cured, Virginia sun-cured, and Maryland tobacco and include the rate of penalty on marketings of Maryland tobacco during the 1965–66 marketing year. Other changes have been made to simplify and clarify the regulations. These changes include revising provisions which applied only to flue-cured tobacco for the marketing year beginning July 1, 1965, to make them applicable, for the 1965 and subsequent marketing years, to all kinds of tobacco sold at auction warehouses. Regulations for flue-cured tobacco which will incorporate these changes for the 1966 and subsequent marketing years or revisions thereof will be issued prior to July 1, 1966.

(b) Included in the regulations is a revision of the definition of floor sweepings which limits the amount of floor sweepings which may be marketed without being considered leaf account tobacco. Under the revised definition, marketed floor sweepings which exceed the pounds determined by multiplying a designated percentage times the total first sales of tobacco at auction for the season by a warehouse shall be deemed to be leaf account tobacco. The percentage figures were obtained by dividing the total amount of floor sweepings for all warehouses by the total amount of first sales of tobacco at auction at warehouses, as reported by ASCS State

offices by warehouses for the 1962–63, 1963–64, and 1964–65 marketing years, except that for Maryland tobacco the marketing years 1961–62, 1962–63, 1963–64 were used as figures for the 1964–65 marketing year were not available. For the purpose of determining the percentage figures because of the similarity of handling and marketing practices, burley and Maryland tobacco were considered as one kind of tobacco, and fire-cured, dark air-cured and Virginia sun-cured tobacco were considered as one kind of tobacco. The change in the definition of floor sweepings was made as a limitation on the amount of floor sweepings not considered as leaf account tobacco will facilitate the proper identification of marketings of excess tobacco and enable warehousemen to more readily account for such tobacco.

(c) Public notice of intention to issue the amendments was given (30 F.R. 12845) in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 1001–1011) and due consideration has been given to recommendations received in response to such notice. The public notice did not include notice that the amendments would include the rate of penalties on marketings of Maryland tobacco during the 1965–66 marketing year which rate is the result of a mathematical calculation provided by statute (7 U.S.C. 1314), or that changes would be made with respect to flue-cured tobacco.

(d) Tobacco farmers engaged in the production of burley, fire-cured, dark air-cured and Virginia sun-cured tobacco in 1965 and buyers of such tobacco are prepared to negotiate nonwarehouse sales and warehousemen are making plans for the sale of such tobacco at auction. In addition, producers of flue-cured tobacco are now engaged in marketing the tobacco produced by them in 1965.

Hence, it is essential that the amendments contained herein which deal with the identification of sales of 1965 crop tobacco and for the keeping of records with respect thereto be made effective at the earliest possible date. Accordingly, it is hereby found and determined that compliance with the effective date requirement of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable and contrary to the public interest, and the amendments contained herein shall become effective upon publication in the FEDERAL REGISTER. It is also found and determined, with respect to the changes which affect flue-cured tobacco and designate the rate of penalty for the 1965-66 marketing year on marketings of excess Maryland tobacco, that compliance with the notice and public procedure requirements of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest.

§ 724.51 [Amended]

In § 724.51 Definitions:

1. Paragraph (d), regarding "Buyers Corrections Account", is revised to read:

(d) "Buyers Corrections Account" means the warehouse account of tobacco purchased at auction by the buyer, but not delivered to the buyer, or any tobacco returned by the buyer because of rejection by the buyer, lost ticket, or any other valid reason, which is turned back to the warehouseman and supported by an adjustment invoice from the buyer. This account shall include the pounds and amounts deducted resulting from short baskets and short weights, and pounds and amounts added resulting from long baskets and long weights, which buyers debit or credit to the warehouseman and support with adjustment invoices.

2. Paragraph (h), regarding "Dealer" or "Buyer", is amended by revising the exception for flue-cured tobacco contained therein to read: "except that for flue-cured tobacco for the marketing year beginning July 1, 1965, and for burley, fire-cured, dark air-cured, Virginia sun-cured, and Maryland tobacco for the marketing year beginning October 1, 1965, and subsequent marketing years, the term means a person who engages to any extent in acquiring or selling tobacco in the form normally marketed by producers."

3. Paragraph (j), regarding "Floor sweepings", is amended to read:

(j) "Floor sweepings":

(1) For burley, fire-cured, dark air-cured, Virginia sun-cured and Maryland tobacco for the marketing year beginning October 1, 1965 and subsequent marketing years, means scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business: *Provided*, That floor sweepings exceeding the pounds determined by multiplying the applicable following listed percentage times the total first sales of tobacco at auction for the season for the warehouse, shall be deemed to be leaf account tobacco:

Kind of Tobacco	*Percentage*
Burley and Maryland	0.30 (three-tenths of 1 percent).
Fire-Cured, Air-Cured and Virginia Sun-Cured.	0.02 (two-hundredths of 1 percent).

(2) For flue-cured tobacco for the marketing year beginning July 1, 1965, means scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business: *Provided*, That, floor sweepings exceeding the pounds determined by multiplying the applicable following listed percentage times the total first sales of tobacco at auction for the season for the warehouse, shall be deemed to be leaf account tobacco:

Location of Warehouse	*Percentage*
Florida, Georgia	1.10 (one and one-tenth percent).
North Carolina, South Carolina and Virginia.	0.17 (seventeen-hundredths of 1 percent).

4. Paragraph (l), regarding "Leaf Account Tobacco", is amended to read as follows:

(l) "Leaf Account Tobacco" means:

(1) For burley, fire-cured, dark air-cured, Virginia sun-cured and Maryland tobacco for the marketing year beginning October 1, 1965, and succeeding marketing years, all tobacco purchased or otherwise acquired by or for the account of the warehouse, and shall include, but not be limited to, tobacco from Buyers Corrections Account and sales and resales of such tobacco, scrap tobacco obtained through grading tobacco for farmers or furnishing farmers curing or stripping space, floor sweepings purchased from another warehouseman or dealer, and floor sweepings deemed to be leaf account tobacco under subparagraph (1) of paragraph (j) of this section.

(2) For flue-cured tobacco for the marketing year beginning July 1, 1965, all tobacco purchased or otherwise acquired by or for the account of a warehouse, and shall include but not be limited to, tobacco from Buyers Corrections Account, sales and resales of such tobacco, floor sweepings purchased from another warehouseman or dealer, and floor sweepings deemed to be leaf account tobacco under subparagraph (2) of paragraph (j) of this section.

5. Paragraph (u), regarding "Sale date" is amended to read:

(u) "Sale date" means the date on which the gross amount of the sales price of a first marketing of tobacco is determined except that for the marketing year beginning October 1, 1965, and succeeding marketing years, for within quota Maryland tobacco at the Baltimore Hogshead Market means the time after such tobacco is received by a warehouse at such market, has been weighed, recorded in the official records and has been graded by Maryland State inspectors.

6. Paragraph (cc), regarding "Warehouse sale," is amended to read:

(cc) "Warehouse sale" for flue-cured tobacco for the marketing year beginning July 1, 1965, and for burley, fire-cured, dark air-cured, Virginia sun-cured and Maryland tobacco for the marketing year beginning October 1, 1965, and succeeding marketing years, means a marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, including sale of all lots or baskets of tobacco at public auction in sequence at a given time and shall include for Maryland tobacco each marketing of farm tobacco through a hogshead tobacco warehouse to a buyer other than the warehouseman and each marketing of resale tobacco through such a warehouse.

§ 724.90 [Amended]

In § 724.90 Identification of marketings, excluding cigar tobacco:

7. Paragraph (a)(1) *Sale memo and bill of nonwarehouse sale*, is amended by striking thereof the following: "(Reverse side of sale memo)".

8. Paragraph (f) *Recording names of additional producers*, is deleted.

9. A new paragraph (i) is added to read:

(i) *Separate display of producer tobacco on auction warehouse floor.* Each basket of burley, fire-cured, dark air-cured, Virginia sun-cured, and Maryland producer's tobacco placed on a warehouse floor shall be displayed on baskets separate from tobacco produced on any other farm and shall be identified on the warehouse bill (floor sheet) covering such baskets by the marketing card for the kind of tobacco issued for the farm on which the tobacco was produced. Such kinds of tobacco not so displayed shall not be eligible for price support.

§ 724.92 [Amended]

In § 724.92 Rate of penalty:

10. Paragraph (h) *1964–65 average market price,* is amended by adding at the end thereof an average market price for Maryland tobacco of 62.6 cents per pound.

11. Paragraph (i) *1965–66 rate of penalty per pound,* is amended by adding at the end thereof the rate of penalty per pound upon marketings of excess Maryland tobacco of 47 cents per pound.

§ 724.94 [Amended]

In § 724.94 Penalties considered to be due from warehousemen, hogshead warehousemen, dealers, buyers, and others excluding the producer:

12. Paragraph (b) *Nonwarehouse sale,* is amended by striking from subparagraph (1) thereof the following: "(Reverse side of sale memo)".

§ 724.99 [Amended]

In § 724.99 Warehouseman's records and reports:

13. Paragraph (a) *Record of marketing,* is amended by changing subparagraph (6) thereof to read:

(6) In the case of resales for dealers, the name of the dealer making each resale, and in the case of resales for the warehouse, the name of the applicable warehouse account shall be shown on the warehouse records so that the individual lots of tobacco sold can be identified, and the word "Resale" shall be clearly shown on each warehouse bill (floor sheet) covering such tobacco.

14. In Paragraph (b) *Identification of producer sales of tobacco*—(1) *Floor sheet,* subdivision (i) is amended to read:

(i) The serial number of the Form MQ–76 or Form MQ–77 on which tobacco is to be marketed at auction shall be recorded by the warehouseman on his office copy of the warehouse bill (floor sheet) prior to the time the tobacco is offered for sale. The letters "NW" shall be shown on each line of a warehouse bill (floor sheet) on which there is recorded tobacco purchased by or for the warehouse at nonwarehouse sale and there shall be recorded on all such warehouse bills (floor sheets) the serial number of the Form MQ–76 or Form MQ–77 on which the tobacco is marketed at the time the tobacco is purchased at nonwarehouse sale. A copy of the warehouse bill (floor sheet) bearing the letters "NW" shall be furnished the producer for any lot or basket of such tobacco purchased by the warehouseman.

15. In Paragraph (c) *Sale memo and bill of nonwarehouse sale,* subparagraph (1) is amended to read:

(1) A record in the form of a valid sale memo from a Form MQ–76 or Form MQ–77 or Form MQ–82, Sale Without Marketing Card, shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through a warehouse and each nonwarehouse sale of tobacco purchased by or for the warehouseman, including scrap tobacco obtained as a result of providing curing space or stripping space for farmers. Each sale memo shall be executed as follows:

(i) *Warehouse sale.* A sale memo issued from a Form MQ–76 to cover an auction sale shall show in the spaces provided therefor, the Bill (floor sheet) No., pounds sold, and the gross amount of the purchase price. A sale memo issued from a Form MQ–77 to cover an auction sale shall show on the first page thereof in all of the spaces provided therefor, the Warehouse Bill(s) No., the pounds sold, the gross amount of the purchase price, and the amount of penalty due.

(ii) *Nonwarehouse sale to a warehouseman who does not prepare a warehouse bill (floor sheet).* A sale memo issued to cover a nonwarehouse sale of tobacco to a warehouseman who does not prepare a warehouse bill (floor sheet) to cover the sale, shall show in Item 2 of a sale memo from Form MQ–76 or on the reverse side of a sale memo from Form MQ–77 the pounds sold, and the gross amount of the purchase price, and the amount of penalty due on a sale memo from MQ–77. The signature of the producer shall be obtained in the space provided.

(iii) *Nonwarehouse sale to a warehouseman who prepares a warehouse bill (floor sheet).* (*a*) Where a warehouseman purchases all the delivery of a producer's tobacco at a nonwarehouse sale and prepares a warehouse bill (floor sheet) to cover the purchase, Item 2 of a sale memo from Form MQ–76 or the reverse side of a sale memo from Form MQ–77, shall be completed as specified in subdivision (ii) of this subparagraph and in addition, in the spaces provided in Item 1 of a sale memo from Form MQ–76 or on the first page of a sale memo from Form MQ–77 the number of pounds purchased and the gross amount paid shall be shown in the spaces provided therefor and the amount of penalty due on a sale memo from MQ–77. The signature of the producer shall be obtained in the space provided.

(*b*) Where a warehouseman purchases at nonwarehouse sale part of a delivery of tobacco by a producer and the remainder of the tobacco is sold at auction.

(*1*) Item 1 of a sale memo from Form MQ–76 shall be completed to show the warehouse Bill (floor sheet) No., the total number of pounds covered by the entire delivery under "Lbs. Sold", and the gross amount paid for the entire delivery under "Gross Amount". The first page of a sale memo from a Form MQ–77 shall be completed to show the Warehouse Bill(s) (floor sheet) No., in the spaces provided therefor, the total number of pounds covered by the entire delivery under "Pounds Sold", the gross amount paid for the entire delivery under "Gross Amount", and the amount of penalty due.

(2) Item 2 of a sale memo from Form MQ–76 shall show the number of pounds under "Lbs. Sold" at nonwarehouse sale and under "Gross Amount" the amount paid for the tobacco sold at nonwarehouse sale. The reverse side of a sale memo from a Form MQ–77 shall show the number of pounds sold at nonwarehouse sale in the space therefor and the amount paid for the tobacco sold at nonwarehouse sale shall be shown in the space provided for "Amount".

16. In paragraph (f) *Record and report of purchases and resales,* subparagraph (1) is amended to read:

(1) All nonwarehouse purchases of tobacco except nonwarehouse purchases for which a warehouseman prepares a floor sheet.

17. In paragraph (h) *Daily report of auction warehouse business,* subparagraph (3) is amended to read:

(3) (i) The total pounds and gross amount of leaf account purchases at auction on the warehouseman's own floor,

(ii) The total pounds and gross amount of leaf account purchases at nonwarehouse sale for which a floor sheet is prepared, and

(iii) The total pounds and gross amount of all leaf account resales at auction on the warehouseman's own floor, including resales of tobacco from the warehouseman's Buyers' Corrections Account.

18. Paragraph (h), "Daily report of warehouse business." Subparagraph (9) is amended by adding thereto a sentence to read: "This subparagraph (9) shall not be applicable to burley, fire-cured, dark air-cured, Virginia sun-cured, and Maryland tobacco for the marketing year beginning October 1, 1965, and subsequent marketing years".

19. A new paragraph (j) is added to read:

(j) *Daily report of data from Buyers Corrections Account.* For burley, fire-cured, dark air-cured, Virginia sun-cured, and Maryland tobacco for the marketing year beginning October 1, 1965, and subsequent marketing years, each warehouseman shall keep a record and make reports on MQ–79, Dealer's Record, showing for each sale day and for each buyer the total pounds and gross amount of debits for the warehouse for short baskets, short weights, and returned baskets and the total pounds and gross amounts of credits for the warehouse for long baskets and long weights, as shown by the Buyers' Corrections Account, excluding billing errors, kept by the warehouseman.

In § 724.101 Dealer's record and reports, excluding cigar tobacco buyers:

20. In paragraph (c) *Bill of nonwarehouse sale and sale memo*, Subparagraph (1) is amended to read:

(1) Each purchase of tobacco by a dealer from a producer, other than through a warehouse sale or hogshead warehouse sale, including farm scrap tobacco obtained from grading tobacco for farmers or as a result of furnishing farmers curing space or stripping space, shall be identified by a sale memo from the marketing card issued for the farm on which the tobacco was produced. The producer's signature shall be obtained in Item 3 on the sale memo from a Form MQ–76 or in the space provided on the bill of Nonwarehouse Sale on the reverse side of a sale memo from a Form MQ–77. Any sale of producer's tobacco which is not identified by a marketing card (Form MQ–76 or Form MQ–77) shall be identified by a Form MQ–82 executed by a marketing recorder or other representative of the State executive director. The dealer shall record or have a marketing recorder record each purchase of nonwarehouse tobacco made by him on Form MQ–79, Dealers' Record.

21. Paragraph (f) is amended to read:

(f) *Report to warehousemen for buyers corrections account of tobacco received.* Notwithstanding the provisions of § 724.102, any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish the warehouseman on a daily basis an invoice or an adjustment invoice correctly setting forth the pounds and dollars for which he has not been invoiced or for which he has been invoiced incorrectly.

In § 724.102 Dealers exempt from regular records and reports, excluding cigar tobacco buyers:

22. The proviso contained in paragraph (a) is revised to read: "*Provided, however*, That, any such dealer or buyer who purchases tobacco at nonwarehouse sale or who purchases or resells tobacco from or to another dealer or a warehouseman, but not at a warehouse sale or a hogshead warehouse sale, shall be subject to the provisions of § 724.101 with respect to such purchases and resales".

23. Section 724.108 *Examination of records and reports*, is amended by adding a sentence at the end thereof to read: "The records and reports, including buyer invoices (bill-outs) and basket tickets, shall be kept in an orderly manner by sale day to facilitate examination and verification."

NOTE: The reporting and recordkeeping requirements contained herein have been approvided by, and subsequent reporting and recordkeeping requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Secs. 301, 314, 375, 52 Stat. 38, as amended, 48, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1314, 1375)

Effective date: Date of publication.

Signed at Washington, D.C., on November 4, 1965.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65–12045; Filed, Nov. 8, 1965; 8:50 a.m.]

PART 730—RICE

Subpart—1966–67 Marketing Year

PROCLAMATIONS AND DETERMINATIONS WITH RESPECT TO MARKETING QUOTAS AND NATIONAL ACREAGE ALLOTMENT FOR 1966 CROP RICE, AND APPORTIONMENT OF 1966 NATIONAL ACREAGE ALLOTMENT OF RICE AMONG THE SEVERAL STATES

Sec.
730.1701 Basis and purpose.
730.1702 Marketing quotas on 1966 crop rice.
730.1703 National acreage allotment of rice for 1966.
730.1704 Apportionment of 1966 national acreage allotment of rice among the several States.

AUTHORITY: The provisions of this subpart issued under secs. 301, 352, 353, 354, 375, 52 Stat. 38, 60, 61, 66, as amended; 7 U.S.C. 1301, 1352, 1353, 1354, 1375.

§ 730.1701 Basis and purpose.

(a) Section 730.1702 is issued under and in accordance with sections 301 and 354 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the total supply and normal supply of rice for the marketing year beginning August 1, 1965, and to proclaim that marketing quotas will be applicable to the 1966 crop of rice. Section 730.1703 is issued under and in accordance with sections 352 and 353 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the national acreage allotment of rice for the calendar year 1966. Section 353(c)(6) of the act, as amended by section 301 of Public Law 85–835, 72 Stat. 994, provides that the national acreage allotment of rice for 1966 shall be not less than the total acreage allotted in 1956.

Section 730.1704 is issued under and in accordance with section 353 of the Agricultural Adjustment Act of 1938, as amended, to apportion among the several States the national acreage allotment of rice for 1966 as proclaimed in § 730.1703 hereof. Section 353 of the act provides that the national acreage allotment of rice for 1966, less a reserve of not to exceed one per centum for apportionment to farms receiving inadequate allotments, shall be apportioned among the States in the same proportion that they shared in the total acreage allotted in 1956.

Section 353(b) of the act, as amended by Public Law 85–443, authorizes the Secretary of Agriculture under certain circumstances to divide any State into two administrative areas to be designated "producer administrative area" and "farm administrative area," and provides that if any State is so divided into administrative areas the term "State acreage allotment" for the purposes of section 353 of the Agricultural Adjustment Act of 1938, as amended, shall be deemed to mean that part of the State acreage allotment apportioned to each administrative area.

Section 353(c)(1) of the act, as amended by Public Law 85–443, provides that if any State is divided into administrative areas, the allotment for each area shall be determined by apportioning the State acreage allotment among counties as provided in section 353(c)(1) of the Agricultural Adjustment Act of 1938, as amended, and totaling the allotments for the counties in each such area. The acreage allotments for the "farm administrative area" and "producer administrative area" in the State of Louisiana which are set out in § 730.1704 were determined by apportioning the State acreage allotment for Louisiana among the counties in the State in the same proportion which each such county shared in the total acreage allotted in the State in 1956, as provided in section 353(c)(1) of the Agricultural Adjustment Act of 1938, as amended, and totaling the allotments for the counties in each such area.

(b) The findings and determinations made in §§ 730.1702, 730.1703, and 730.1704 have been made on the basis of the latest available statistics of the Federal Government. The findings in § 730.1702 show that marketing quotas are required for the 1966 crop of rice. The determinations made in § 730.1703 indicate the amount of the 1966 national acreage allotment of rice.

(c) Prior to taking action herein, public notice (30 F.R. 12684) was given in accordance with the Administrative Procedure Act (5 U.S.C. 1003), that the Secretary was preparing to determine whether marketing quotas are required for the 1966 crop of rice, to determine and proclaim the national acreage allotment of rice for 1966, and to apportion among the States the 1966 national acreage allotment of rice. No data, views, and recommendations were submitted pursuant to such notice.

(d) The Agricultural Adjustment Act of 1938, as amended requires that the proclamation with respect to marketing quotas for the 1966 crop of rice be issued not later than December 31, 1965; that the referendum to determine whether farmers are in favor of or opposed to such quotas be held within 30 days after the issuance of the proclamation; and that insofar as practicable operators of farms be notified of their farm rice acreage allotments prior to the holding of the referendum. Therefore, it is necessary to waive the 30-day effective date provision of section 4 of the Administrative Procedure Act and such provision is hereby waived. Accordingly, the regulations in §§ 730.1701 to 730.1704, inclusive, shall become effective upon filing with the Director, Office of the Federal Register.

§ 730.1702 Marketing quotas on 1966 crop of rice.

The total supply of rice in the United States for the marketing year beginning August 1, 1965, is determined to be 83,500 thousand hundredweight (rough basis). The normal supply of rice for such marketing year is determined to be 81,620 thousand hundredweight. Since the total supply of rice for the 1965–66 marketing year exceeds the normal supply for such marketing year, marketing quotas shall be in effect on the 1966 crop of rice.

§ 730.1703 National acreage allotment of rice for 1966.

The normal supply of rice for the marketing year commencing August 1, 1966, is determined to be 79,054 thousand hundredweight (rough basis). The carryover of rice on August 1, 1966, is determined to be 9,000 thousand hundredweight. Therefore, the production of rice needed in 1966 to make available a total supply of rice for the 1966–67 marketing year equal to the normal supply for such marketing year is 70,054 thousand hundredweight. The national average yield of rice for the 5 calendar years, 1961 through 1965 is determined to be 3,852 pounds per planted acre. The national acreage allotment of rice for 1966 computed on the basis of the production of rice needed in 1966 and the national average yield per planted acre of rice for the 5 calendar years, 1961 through 1965, is 1,818,638 acres. Since this amount is more than the total acreage allotted in 1956, which is the minimum for 1966 provided by law, the national acreage allotment of rice for the calendar year 1966 shall be 1,818,638 acres.

§ 730.1704 Apportionment of 1966 national acreage allotment of rice among the several States.

The national acreage allotment proclaimed in § 730.1703, less a reserve of 672 acres, is hereby apportioned among the several rice-producing States as follows:

State		*Acres*
Arizona		252
Arkansas		439,019
California		329,822
Florida		1,053
Illinois		22
Louisiana:		
Farm Administrative Area	503,984	
Producer Administrative Area	18,651	
State total		522,635
Mississippi		51,354
Missouri		5,245
North Carolina		42
Oklahoma		164
South Carolina		3,132
Tennessee		569
Texas		464,657
Total apportioned to States		1,817,966
Unapportioned National Reserve		672
U.S. total		1,818,638

Effective date. Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 28, 1965.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 65-12020; Filed, Nov. 8, 1965; 8:48 a.m.]

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 5]

PART 751—LAND USE ADJUSTMENT PROGRAM

Subpart—1963 Cropland Conversion Program

DEFINITION; DIRECTOR

The regulations governing the 1963 Cropland Conversion Program, 28 F.R. 1206 as amended are hereby further amended as follows:

Section 751.49(d) is amended by changing the definition of the term "Director" to read as follows:

§ 751.49 Definitions.

* * * * *

(d) "Director" means the Director or Acting Director of the Farmer Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

* * * * *

(Sec. 16(c), 76 Stat. 606; U.S.C. 590(e))

Effective date. Date of signature.

Signed at Washington, D.C., on November 4, 1965.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65-12046; Filed, Nov. 8, 1965; 8:51 a.m.]

[Amdt. 1]

PART 751—LAND USE ADJUSTMENT PROGRAM

Subpart—1964–65 Cropland Conversion Program

DEFINITION OF DIRECTOR

The regulations governing the 1964–65 Cropland Conversion Program, 29 F.R. 13559, as amended, are hereby further amended as follows:

Section 751.51(d) is amended by changing the definition of the term "Director" to read as follows:

§ 751.51 Definitions.

* * * * *

(d) "Director" means the Director or Acting Director of the Farmer Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

* * * * *

(Sec. 16(e), 76 Stat. 606; 16 U.S.C. 590p (e))

Effective date. Date of signature.

Signed at Washington, D.C., on November 4, 1965.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65-12047; Filed, Nov. 8, 1965; 8:51 a.m.]

[Amdt. 2]

PART 755—REGIONAL PROGRAMS

Subpart—Appalachian Land Stabilization and Conservation Program

DEFINITIONS, STATE PROGRAMS

The regulations governing the Appalachian Land Stabilization and Conservation Program, 30 F.R. 8669, as amended, are hereby further amended as follows:

1. Section 755.1(f) is amended by changing the definition of the term "Director" to read as follows:

(f) "Director" means the Director or Acting Director of the Farmer Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

2. The last sentence of § 755.5(f) is amended to read as follows:

(f) * * * Responsibility is assigned to the Farmer Programs Division, ASCS, for review and recommendation for approval or disapproval by the Secretary.

(Pub. Law 89-4, 79 Stat. 5, 12 (1965))

Effective date. Date of signature.

Signed at Washington, D.C., on November 4, 1965.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65-12049; Filed, Nov. 8, 1965; 8:51 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Expenses of Raisin Administrative Committee and Rate of Assessment for 1965–66 Crop Year

Notice was published in the October 22, 1965, issue of the FEDERAL REGISTER (30 F.R. 13456) regarding proposed expenses of the Raisin Administrative Committee for the 1965–66 crop year and rate of assessment for that crop year, pursuant to §§ 989.79 and 989.80 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in Cali-

fornia. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Raisin Administrative Committee, and other available information, it is found that the expenses of the Raisin Administrative Committee and the rate of assessment for the crop year beginning September 1, 1965, shall be as follows:

§ 989.316 Expenses of the Raisin Administrative Committee and rate of assessment for the 1965–66 crop year.

(a) *Expenses.* Expenses (other than these specified in § 989.82) in the amount of $107.840 are reasonable and likely to be incurred by the Raisin Administrative Committee during the crop year beginning September 1, 1965, for the maintenance and functioning of the Committee and the Raisin Advisory Board and for such purposes as the Secretary may, in accordance with § 989.79, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 989.80, to pay to the Raisin Administrative Committee as his pro rata share of the expenses is fixed at 80 cents per ton applicable to each of the following:

(1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins pursuant to subparagraph (3) of this paragraph;

(2) Reserve tonnage raisins sold to the handler by the Committee pursuant to § 989.67 during the crop year; and

(3) Standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

It is 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. 1003(c)) in that: (1) The relevant provisions of said amended marketing agreement and order require that the rate of assessment fixed for a particular crop year which handlers are required to pay shall be applicable to all free tonnage raisins of the crop year and to all reserve tonnage raisins sold to handlers by the Committee during the crop year; and (2) the current crop year began on September 1, 1965, and the rate of assessment fixed herein will automatically apply to all such raisins beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 3, 1965.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 65–12023; Filed, Nov. 8, 1965; 8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 1]

PART 1427—COTTON

Subpart—Standards for Approval of Cotton Warehouses and Continuing Operation Under Price Support Programs

MAXIMUM NET WORTH REQUIREMENT

On August 5, 1965, there was published in the FEDERAL REGISTER (30 F.R. 9759) standards for approval of cotton warehouses and continuing operation under price support programs of the Commodity Credit Corporation. In order to specify the maximum net worth which is required of any warehouseman, paragraph (a)(4) of § 1427.1084 of such standards is hereby amended to read as follows:

§ 1427.1084 Standards for warehousemen and warehouses.

* * * * * * *

(a) * * *

(4) Have a net worth equal to at least the product of the total capacity in bales times $5 per bale with a minimum net worth of $10,000 and a maximum net worth which need not be more than $100,000. A deficiency in net worth must be made up by an increase in the amount of the bond in an equal amount, except that the warehouseman must have at least $10,000 net worth.

* * * * * * *

Effective date. Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 4, 1965.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 65–12048; Filed, Nov. 8, 1965; 8:51 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 20—FROZEN DESSERTS

Ice Cream; Confirmation of Effective Date of Order Amending Identity Standard

In the matter of amending the standard of identity for ice cream (21 CFR 20.1):

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended, 70 Stat. 919; 72 Stat. 948; 21 U.S.C. 341, 371), and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of September 17, 1965 (30 F.R. 11915). Accordingly, the amendments promulgated by that order will become effective December 31, 1965.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: November 1, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65–12007; Filed, Nov. 8, 1965; 8:47 a.m.]

PART 51—CANNED VEGETABLES OTHER THAN THOSE SPECIFICALLY REGULATED

Canned Bean Sprouts; Order Amending Standard of Identity

In the matter of amending the definition and standard of identity for canned bean sprouts to provide for the use of calcium lactate as a permitted optional ingredient:

The Commissioner or Food and Drugs has studied the comments received in response to the notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of Aug. 13, 1965 (30 F.R. 10115), together with other pertinent information and data, and has concluded that it will promote honesty and fair dealing in the interest of consumers to adopt the amendment proposed, but with the qualification that the calcium lactate be declared as such on the label of the food involved. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended; 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.90): *It is*

ordered, That § 51.990 be amended by adding to paragraphs (c) and (f) new subparagraphs, as follows:

§ 51.990 Canned vegetables other than those specifically regulated; identity; label statement of optional ingredients.

* * * * *

(c) * * *

(3) * * *

(iii) In the case of canned bean sprouts, calcium lactate may be added in an amount reasonably necessary to improve crispness but not in an amount such that the calcium contained therein exceeds 0.051 percent of the weight of the finished food.

* * * * *

(f) * * *

(12) If the optional ingredient specified in paragraph (c)(3)(iii) of this section is present, the label shall bear the statement "Calcium lactate added to improve crispness."

Any person who will be adversely affected by the foregoing order may at any time within 30 days following the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 948; 21 U.S.C. 341, 371)

Dated: November 1, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-12008; Filed, Nov. 8, 1965; 8:47 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Inorganic Bromides Resulting From Soil Treatment With Ethylene Dibromide; Tolerance for Residues

A petition (PP 5F0429) was filed with the Food and Drug Administration by The Dow Chemical Co., Post Office Box 512, Midland, Mich., 48641, requesting the establishment of a tolerance of 25 parts per million for residues of inorganic bromides (calculated as Br) in or on peanuts grown in soil treated with the nematocide ethylene dibromide.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purpose for which a tolerance is being established.

Data before the Commissioner show that peanut hay and peanut hulls grown on soil treated with ethylene dibromide or 1,2-dibromo-3-chloropropane cannot be fed to cattle without transmission of inorganic bromides from feed to meat and milk. A statement regarding limitations on the use of peanut hay and peanut hulls from peanuts grown on such treated soil is being currently published in this order under § 120.126a.

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 2.90) the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR Part 120) are amended as set forth below:

1. Section 120.126 is amended by adding a tolerance of 25 parts per million for residues of inorganic bromides in or on peanuts, as follows:

§ 120.126 Inorganic bromides resulting from soil treatment with ethylene dibromide; tolerances for residues.

* * * * *

25 parts per million in or on cottonseed, peanuts (see § 120.126a).

2. Part 120 is amended by adding thereto the following new section:

§ 120.126a Inorganic bromide residues in peanut hay and peanut hulls; statement of policy.

(a) Investigations by the Food and Drug Administration show that peanut hay and peanut hulls have been used as feed for meat and dairy animals. While many growers now harvest peanuts with combines and leave the hay on the ground to be incorporated into the soil, some growers follow the practice of curing peanuts on the vines in a stack and save the hay for animal feed. Peanut shells or hulls have been used to a minor extent as roughage for cattle feed. It has been established that the feeding to cattle of peanut hay and peanut hulls containing residues of inorganic bromides will contribute considerable residues of inorganic bromides to the meat and milk.

(b) There are no tolerances for inorganic bromides in meat and milk to cover residues from use of such peanut hay and peanut hulls as animal feed. Peanut hay and peanut hulls containing residues of inorganic bromides from the use of nematocides such as ethylene dibromide or 1,2-dibromo-3-chloropropane are unsuitable as an ingredient in the feed of meat and dairy animals and should not be represented, sold, or used for that purpose.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 1, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-12009; Filed, Nov. 8, 1965; 8:47 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Inorganic Bromides Resulting From Soil Treatment With 1,2-Dibromo-3-Chloropropane; Tolerance for Residues

A petition (PP 5F0430) was filed with the Food and Drug Administration by The Dow Chemical Co., Post Office Box 512, Midland, Mich., 48641, on behalf of itself and Shell Chemical Co., 110 West 51st Street, New York, N.Y., 10020, requesting the establishment of a tolerance of 50 parts per million for residues of inorganic bromides (calculated as Br) in or on peanuts grown in soil treated with the nematocide 1,2-dibromo-3-chloropropane.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purpose for which a tolerance is being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Sec-

retary (21 CFR 2.90), § 120.197 is amended by adding a tolerance of 50 parts per million for residues of inorganic bromides in or on peanuts, as follows:

§ 120.197 **Inorganic bromides resulting from soil treatment with 1,2-dibromo-3-chloropropane; tolerances for residues.**

* * * * *

50 parts per million in or on broccoli, brussels sprouts, cabbage, cantaloupes, cauliflower, eggplants, honeydew melons, muskmelons, peanuts,[1] peppers, pineapples, tomatoes.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a (d)(2))

Dated: October 29, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-12010; Filed, Nov. 8, 1965; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

EMULSIFIERS AND/OR SURFACE-ACTIVE AGENTS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 5B1714) filed by American Cyanamid Co., Wayne, N.J., 07470, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of tetrasodium *N*-(1,2-dicarboxyethyl)-*N*-octadecylsulfosuccinamate as a polymerization emulsifier for resins applied to tea-bag material. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90), § 121.2541(c) is amended by inserting alphabetically in the list of substances a new item, as follows:

§ 121.2541 **Emulsifiers and/or surface-active agents.**

* * * * *

(c) List of substances:

* * * * *

Tetrasodium *N*-(1,2-dicarboxyethyl)-*N*-octadecylsulfosuccinamate, for use only as a polymerization emulsifier for resins applied to tea-bag material.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: November 1, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-12011; Filed, Nov. 8, 1965; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart G—Radiation and Radiation Sources Intended for Use in the Production, Processing, and Handling of Food

GAMMA RADIATION FOR THE TREATMENT OF FOOD

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 5M1644) filed by the Department of the Army, Quartermaster Research and Engineering Command, Natick, Mass., 01761, and other relevant material, has concluded that the food additive regulations should be amended to provide an increased total dose of gamma radiation that may be safely used on white potatoes. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90), § 121.3003 *Gamma radiation for the treatment of wheat and potatoes* is amended by changing the limitation column for white potatoes to read:

Absorbed dose: 5,000 to 15,000 rads.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 1, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-12012; Filed, Nov. 8, 1965; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

Chesapeake Bay, Md.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 204.36 governing the use and navigation of a danger zone in Chesapeake Bay, in the vicinity of Bloodsworth Island, Md., is hereby amended making minor revisions in paragraph (b), effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.36 **Chesapeake Bay, in vicinity of Bloodsworth Island, Md.; shore bombardment, air bombing, air strafing, and rocket firing area, U.S. Navy.**

* * * * *

(b) *The regulations.* * * *

(4) Warning that ships are firing or soon will be firing will be indicated during daylight by a red flag prominently displayed from a tower off Okahanikan Point at latitude 38°77'45", longitude 76°05'35", and at night by a searchlight beam pointed into the sky. Warning that aircraft are firing or soon will be firing will be indicated by the aircraft pa-

[1] See § 120.126a for restrictions against use of peanut hay and peanut hulls for animal feed.

trolling the area. All persons, vessels, and other craft shall clear the area when these signals are displayed or when warned by patrol vessels or by aircraft employing the method of warning known as "buzzing" which consists of low flight by the airplane and repeated opening and closing of the throttle.

(5) During hours when firing is in progress or is about to commence, no fishing or oystering vessels or other craft not directly connected with the firing shall navigate within the restricted area, except that deep-draft vessels proceeding in established navigation lanes and propelled by mechanical power at a speed greater than five knots normally will be permitted to traverse the area. When ships are firing or soon will be firing, permission for such deep-draft vessels to enter and traverse the area will be indicated during daylight by dipping the red warning flag to half-mast, and at night by flashing the warning searchlight. When aircraft are firing or soon will be firing in the danger zone, such deep-draft vessels may proceed unless warned to stay clear of the area by the method of warning known as "buzzing."

(6) When firing is not in progress or is not about to commence, oystering and fishing boats and other craft may operate within the restricted area.

* * * * *

(Regs., Oct. 26, 1965, 1507-32 (Chesapeake Bay, Md.)-ENGCW-ON; sec. 7, 40 Stat. 266; 33 U.S.C. 1)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 65-11984; Filed, Nov. 8, 1965; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 2—DELEGATIONS OF AUTHORITY

Revocations

In Part 2, §§ 2.58, 2.59, 2.60 and 2.61 are revoked effective November 2, 1965; however, these regulations remain in force insofar as they are pertinent to any problems, appeals, litigation, or determinations of liability of educational institutions or training establishments for overpayments under 38 U.S.C. 1666.

Approved: November 2, 1965.

By direction of the Administrator.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 65-12025; Filed, Nov. 8, 1965; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart B—Education of Korean Conflict Veterans

In Part 21, Subpart B is revoked.

Subpart B, Education of Korean Conflict Veterans under 38 U.S.C. Chapter 33, is revoked effective November 2, 1965; however, these regulations remain in force insofar as they are pertinent to any problems, appeals, litigation, or determinations of liability of educational institutions or training establishments for overpayments under 38 U.S.C. 1666.

Approved: November 2, 1965.

By direction of the Administrator.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 65-12024; Filed, Nov. 8, 1965; 8:49 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Individual Countries

The regulations of the Post Office Department are amended as follows:

In § 168.5 *Individual country regulations*, make the following changes:

I. In country "Germany (including Saar)" the following changes are made to eliminate references to "Democratic Republic" in referring mail to Eastern Germany:

A. Under Postal Union Mail, the second and third paragraphs are deleted under the item *Observations*.

B. Under Parcel Post, the following changes are made:

1. Under the item *Observations*, the following material is deleted from the first paragraph:

Observations. * * *

Parcels may be addressed "Federal Republic of Germany" or "Berlin (Western Sector)". * * *

2. Under the item *Observations*, the following material is deleted from the fifth paragraph:

Observations. * * *

The postal authorities of Eastern Germany claim that in order to facilitate delivery of parcels, the place of destination should be given as "German Democratic Republic." Parcels addressed "German Russian Zone" or "Germany-Soviet Zone" may be returned to origin. Persons desiring to mail parcels to Eastern Germany should be advised accordingly.

II. In country "Kenya," under Parcel Post, the items *Prohibitions* and *Import* restrictions are deleted.

III. In country "Mexico," under Parcel Post, the present second paragraph under the item *Observations* is deleted and a new second paragraph is inserted in lieu thereof which requires mailers to mark packages to show that addressees possess Mexican import licenses if required. As so inserted, new paragraph two reads as follows:

Parcel Post

* * * * *

Observation. * * *

Parcel post and postal union mail packages for which the declared value exceeds $16.00 (U.S. currency) are not to be accepted for mailing unless the sender has marked the wrapper "Addressee possesses Mexican import license" or "Addressee does not require Mexican import license". Information concerning the Mexican import duties applicable to specific items and their status under Mexican import control may be obtained by sending a description of the items to the American Republic Division, Bureau of International Programs, Department of Commerce, Washington, D.C., 20230, or any field office of that Department.

IV. In country "Uganda", current regulations read as follows:

Postal Union Mail

Surface rates, classifications, weight limits, and dimensions.—See § 168.1.

Air rates.—(See § 168.1 for classifications, weight limits and dimensions.)

Letters, 25 cents per half ounce.
Single post cards, 11 cents each.
Aerogrammes, 11 cents each.
Other articles, 50 cents first 2 ounces; 30 cents each additional 2 ounces.

Small packets.—Accepted.

Letters packages containing dutiable merchandise.—Accepted. See § 112.1(e) of this chapter.

Postal Manual.—Perishable biological materials accepted. See § 111.3(b)(5) of this chapter.

Registration.—Fee, 60 cents Maximum indemnity, $8.17.

Special delivery.—Yes. See § 168.3 for fees and other conditions.

Money orders.—Yes. See § 61.2 of this chapter.

Prohibitions.—Coins, unless intended for ornament. Articles prohibited or restricted as parcel post are prohibited or restricted in the postal union mail.

Parcel Post

Surface parcel rates.—Two pounds or less, 90 cents; each additional pound 35 cents.

Air parcel rates.—Four ounces or less, $1.86; each additional 4 ounces, 69 cents.

Weight limit: 22 pounds.
Sealing: Optional.
Registration: No.
Insurance: No.
Postal forms required:
1 Form 2922.
1 Form 2966.

Dimensions.—Length, 3½ feet; length and girth combined, 6 feet.

Special handling.—Available to port of dispatch only. See § 168.4 for fees.

Indemnity.—No provision.

Prohibitions.—Switchblade knives. Firearms including airguns and imitation pistols; military uniforms and clothing resembling them, unless the addressee possesses a permit.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 505)

HARVEY H. HANNAH,
Acting General Counsel.

[F.R. Doc. 65-12014; Filed, Nov. 8, 1965; 8:48 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 51—GRANTS TO STATES FOR PUBLIC HEALTH SERVICES

Home Health Services; Heart Disease Control

Notice of proposed rule making, public rule making procedures, and delay in effective date have been omitted as unnecessary in the issuance of the following amendments to this part which relate solely to grants to States for programs relating to home health services and heart disease control. The purpose of these amendments is to include a new category for home health services and to change the allotment basis (from 50 cents to 70 cents for the first 100,000 population) for heart disease.

Pursuant to section 314(j) of the Public Health Service Act, as amended (58 Stat. 695; 42 U.S.C. 246 (j)), these amendments are made after consultation with, and with the agreement of, a conference of the State health authorities.

Effective date: The amendment to § 51.3(e), in paragraph number 3 below, shall become effective only upon the publication in the FEDERAL REGISTER.

All other amendments listed below shall become effective only upon the enactment of an Act appropriating funds specifically for home health services, as authorized by section 314(c) of the PHS Act, and upon the date of such enactment or the date of publication of such amendments in the FEDERAL REGISTER, whichever is later.

1. Section 51.1(f) is amended to read as follows:

§ 51.1 Definitions.

* * * * *

(f) "Plans" refers to the information and proposals submitted by the State health authority pursuant to the regulations in this part for activities of the State and political subdivisions thereof for (1) the prevention, treatment and control of venereal disease, (2) the prevention, treatment and control of tuberculosis, (3) establishing and maintaining public health services, (4) the prevention, treatment and control of mental illness, including emotional, psychiatric and neurological disorders, (5) establishing and maintaining organized community programs of heart disease control, (6) the prevention, control and eradication of cancer, (7) services for the chronically ill and the aged, (8) establishing and maintaining radiological health services, (9) establishing and maintaining dental health services, or (10) developing, improving and expanding home health services.

* * * * *

2. Section 51.2 is amended by adding thereto a new paragraph (i) which reads as follows:

§ 51.2 Allotments; extent of health problems.

* * * * *

(i) *Home health services.* The extent of the home health services problem shall be equal to the population 65 years of age and over in each State.

3. Section 51.3 is amended by amending paragraph (e) and by adding thereto a new paragraph (j), so that such paragraphs (e) and (j) read as follows:

§ 51.3 Basis of allotments.

* * * * *

(e) *Heart disease.* Of the amount available for allotment for heart disease control programs:

(1) A portion on the basis of a uniform per capita allotment not to exceed 70 cents per capita for the first 100,000 population or part thereof of each State;

(2) The remaining amount on the basis of the remaining population of each State weighted by financial need.

* * * * *

(j) Of the amount available for allotment for home health services, 100 percent on the basis of population 65 years of age and over weighted by financial need.

4. Section 51.4(c) is amended to read as follows:

§ 51.4 Allotments; estimates; time of making; duration.

* * * * *

(c) Allotments for each program for the first six months shall be made prior to the beginning of the fiscal year or as soon thereafter as practicable, and shall equal not less than 60 percent nor more than 70 percent of the total sum determined to be available for allotment during that fiscal year. At the end of the second quarter, the amounts of all allotments for the first six-month period which have not been certified for payment to the respective States pursuant to § 51.8 shall become available for allotment among the States in the same manner as moneys which had not previously been allotted: *Provided*, That with respect to grants from the fiscal year 1966 appropriation for home health services, 100 percent of the funds available for allotment shall be allotted as soon as practicable in the fiscal year, and that such allotments shall remain available for the remainder of the fiscal year.

5. The introductory text of § 51.6(b) preceding subparagraph (1) is amended to read as follows:

§ 51.6 Plans; contents.

* * * * *

(b) The State health department shall, with respect to its total annual expenditures of Federal and required matching funds for its venereal disease, tuberculosis, heart, cancer, mental health, the chronically ill and the aged, radiological health, dental health, and home health services programs, provide in its State plan for the allocation of such expenditures to such programs in accordance with either of the following procedures:

* * * * *

6. Section 51.9(a) is amended to read as follows:

§ 51.9 Required expenditures of State and local funds; funds of cooperating agencies.

(a) Moneys paid to any State or to a cooperating agency pursuant to section 314 of the Act shall be paid upon the condition that there shall be expended in the State during the fiscal year for which payment is made and for purposes specified in the plan with respect to which payment is made, public funds of the State and its political subdivisions (or in the case of payments to a cooperating agency having an approved heart disease control plan, funds of the cooperating agency) in amounts which shall be exclusive of any funds derived from loan or grant from the United States for the same general purpose and which shall equal separately for venereal disease control, tuberculosis, mental health, general health, the chronically ill and the aged, heart disease, radiological health, and dental health, 100 percent of the Federal grant funds expended pursuant to the plan; and which shall equal separately for home health services 10 percent of the Federal grant funds expended pursuant to the plan.

* * * * *

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply sec. 314, 58 Stat. 693, as amended; 42 U.S.C. 246)

Dated:

[SEAL] LUTHER L. TERRY,
Surgeon General.

Approved: November 1, 1965.

WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 65-12013; Filed, Nov. 8, 1965; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3861]

[Arizona 031726]

ARIZONA

Powersite Restoration No. 648 and Cancellation No. 238; Partly Revoking Certain Waterpower Withdrawals and Opening Public Lands

By virtue of the authority contained in section 1 of the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and in the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), as amended, and Reorganization Plan No. 3 (64 Stat. 1262; 5 U.S.C. 133z-15, note), and the Act of June 20, 1910 (36 Stat. 557, 575), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive Orders of March 1, 1912, December 9, 1909, March 21, 1917,

and November 22, 1924, creating Powersite Reserve Nos. 242, 83, 590, and 759, respectively; the departmental order of February 1, 1917, creating Waterpower Designation No. 4; and the order of the Geological Survey of November 16, 1956, creating Powersite Classification No. 438, are hereby revoked and cancelled so far as they affect the following described lands:

GILA AND SALT RIVER MERIDIAN

T. 4 S., R. 22 E.,
Sec. 1, S½S½;
Sec. 2, lot 4;
Sec. 11, lot 1;
Sec. 12, S½SE¼.
T. 5 S., R. 28 E.,
Sec. 25, S½;
Sec. 35, E½;
Sec. 36, NE¼, lots 1, 2, W½SE¼, W½.
T. 6 S., R. 28 E.,
Sec. 1, SE¼, W½ (unsurveyed), and lots 1, 2, S½NE¼;
Sec. 16, E½, E½NW¼, SW¼NW¼, SW¼;
Sec. 29, lots 1 to 4, incl., E½W½, E½;
Sec. 30, N½, N½SE¼, SW¼SE¼ (unsurveyed), and lots 1, 2, E½SW¼;
Sec. 31, lots 1, 2, 3;
Sec. 32, lots 1 to 4, incl., W½E½; NW¼;
and all lands within ¼ mile of the Gila River.
T. 4 S., R. 29 E.,
Sec. 1, S½SE¼.
T. 5 S., 29 E.,
Sec. 1, lots 1, 10, 11, 18;
Sec. 11, E½NE¼, SE¼, S½SW¼;
Sec. 12, lots 1, 2, and 5 to 16, incl., W½;
Sec. 13, lots 1 to 4, incl., W½;
Sec. 14, N½, SW¼, W½SE¼;
Sec. 15, S½NE¼, SE¼, S½SW¼;
Sec. 16, S½SE¼;
Sec. 19, S½NE¼, S½;
Sec. 20, S½SE¼;
Secs. 21 and 22;
Sec. 23, S½;
Sec. 24, lots 9 to 16, incl., SW¼;
Sec. 25, lots 1 to 16, incl., W½;
Secs. 26 to 31, incl.;
Sec. 32, N½, NW¼SE¼, SW¼;
Sec. 33, NE¼, N½NW¼;
Sec. 34, N½, SE¼, NE¼SW¼;
Sec. 35;
Sec. 36, lots 1 to 12, incl., W½.
T. 6 S., R. 29 E.,
Every smallest legal subdivision any portion of which lies within ¼ mile of Gila River.
T. 3 S., R. 30 E.,
Sec. 1, lots 1, 2, S½NE¼, SE¼, E½SW¼, SW¼SW¼;
Sec. 9, S½NE¼, SE¼;
Sec. 10, W½NE¼, E½NW¼, SW¼NW¼, W½SE¼, SE¼SE¼, SW¼;
Sec. 11, N½, N½SE¼, SW¼SE¼, SW¼;
Sec. 12, N½NE¼, NW¼, W½SW¼, SE¼SW¼;
Sec. 14, NW¼NE¼, NW¼;
Sec. 15, N½, SW¼, W½SE¼;
Sec. 16, NE¼, SW¼, W½SE¼; N½N½NE¼SE¼, S½S½SE¼SE¼;
Sec. 21, N½NE¼, NW¼;
Sec. 22, N½NW¼.
T. 4 S., R. 30 E.,
Sec. 5, lots 1, 2, 4, S½NE¼, SE¼, SE¼SW¼, S½SW¼SW¼, S½N½SW¼SW¼;
Sec. 6, lots 1, 6, 7, E½SW¼;
Sec. 7, E½NE¼, SW¼NE¼, NW¼SE¼, E½SW¼;
Sec. 8, N½NE¼, SW¼NE¼, NW¼;
Sec. 18, E½SW¼, E½NW¼;
Sec. 19, N½NE¼, SE¼NE¼, SW¼SE¼;
Sec. 30, NW¼NE¼, NE¼SE¼;
Sec. 32, S½S½;
Sec. 33, lots 4 and 5.
T. 5 S., R. 30 E.,
Sec. 6, lots 3 to 9, incl., and 12 to 20, incl., and 23, 24;
Sec. 7, lots 1 to 4, incl., SE¼NW¼, NE¼SW¼;
Sec. 18, lot 1, NE¼NW¼;
Sec. 19, lot 4, SE¼SW¼;
Sec. 28, S½S½;
Sec. 29, S½NW¼, S½;
Sec. 30, lots 3, 4, SE¼SW¼, lots 1, 2, E½NW¼, NE¼SW¼, E½;
Sec. 31, E½, lot 2, NE¼NW¼, lots 3, 4, E½SW¼, lot 1, SE¼NW¼;
Sec. 32, W½, S½SE¼;
Sec. 33, N½, N½SE¼, SE¼SE¼, NE¼SW¼;
Sec. 34, W½SW¼.
T. 6 S., R. 30 E.,
Sec. 1, lots 1 to 4, incl., S½N½;
Sec. 3, lots 5, 6, 7, S½NW¼, SW¼NE¼, S½;
Sec. 4, lots 1 to 7, incl., S½NW¼, S½;
Sec. 5, lots 1 to 4, incl., S½N½;
Sec. 9, lots 1, 2, 3, and S½NE¼;
Sec. 10, lots 1 to 6, incl., SW¼NE¼, and S½NW¼;
Sec. 11.
T. 2 S., R. 31 E. (Part Unsurveyed),
Sec. 31, lots 1, 2, 3, 5, E½W½, E½SW¼SW¼, E½;
and all land within 1 mile of San Francisco River; every smallest legal subdivision in unsurveyed secs. 17 to 20, incl., and 30 adjacent to Blue River which when surveyed will be in whole or in part under an altitude of 4,000 feet.
T. 3 S., R. 31 E.,
Sec. 2, lots 3, 4, SW¼NW¼;
Sec. 3, lots 1 to 9, incl., SW¼NE¼, W½SW¼, SE¼SW¼;
Sec. 4, lots 1 to 6, incl., W½SE¼;
Sec. 5, lots 1 to 4, incl., and S½NE¼;
Sec. 6, lots 1 and 3, and 6 to 12, incl., SW¼NE¼, SE¼NW¼, E½SW¼NW¼;
Sec. 10, N½NE¼.
T. 3 S., R. 32 (Unsurveyed),
All lands within 1 mile of San Francisco River.

2. In DA-131—Arizona issued July 5, 1960, the Federal Power Commission vacated the withdrawal pertaining to the following described lands under section 24 of the Federal Power Act for Project No. 837:

T. 5 S., R. 28 E.,
Sec. 12, SE¼SE¼;
Sec. 13, E½;
Sec. 25, E½E½;
Sec. 36, E½NE¼, lots 1, 2, W½SE¼.
T. 6 S., R. 28 E.,
Sec. 1, lot 1, S½, S½N½;
Sec. 2, S½NE¼, S½;
Sec. 10, E½;
Sec. 11;
Sec. 12, N½;
Sec. 14, N½, SW¼, W½SE¼;
Sec. 15, E½;
Sec. 21, E½, SE¼SW¼;
Sec. 22, N½NE¼, SW¼NE¼, NW¼, NW¼SW¼;
Sec. 23, NW¼NE¼, N½NW¼;
Sec. 28, N½, NW¼SW¼;
Sec. 29, NE¼NE¼, SW¼NE¼, SE¼NE¼, SE¼NW¼, S½.
T. 5 S., R. 29 E.,
Sec. 1, lots 10, 11, 18;
Sec. 7, S½SW¼;
Sec. 11, SE¼NE¼, S½SW¼, and SE¼;
Sec. 12, lots 1, 8 to 16, incl., SW¼;
Sec. 13, lots 1 to 4, incl., N½NW¼;
Sec. 14, N½NE¼, NW¼, NW¼SW¼;
Sec. 15, S½NE¼, SE¼, S½SW¼;
Sec. 16, S½SE¼;
Sec. 18, W½SE¼, W½;
Sec. 19, W½, W½E½;
Sec. 21, E½, S½SW¼;
Sec. 22, NW¼NE¼, W½;
Sec. 23, SE¼SE¼;
Sec. 24, lots 5 to 16, incl., SW¼SW¼;
Sec. 25, W½;
Sec. 26, NE¼, S½NW¼, and S½;
Sec. 27;
Sec. 28, N½NE¼, NW¼;
Sec. 29, NE¼, S½NW¼, N½S½, SW¼SW¼;
Sec. 30, NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 31, NE¼NE¼, W½NE¼, W½;
Sec. 35, N½N½, SE¼NW¼, SW¼NE¼;
Sec. 36, N½NW¼.
T. 6 S., R. 29 E.,
Sec. 6, W½, W½NE¼, NE¼NE¼;
Sec. 7, N½NW¼.
T. 5 S., R. 30 E.,
Sec. 6, lots 19, 20, 23, 24;
Sec. 7, lots 1 to 4, incl.;
Sec. 30, lots 3, 4, SE¼SW¼, NE¼SW¼, SE¼;
Sec. 31, NE¼, NE¼SE¼;
Sec. 32, NW¼.
T. 6 S., R. 30 E.,
Sec. 3, SE¼, S½SW¼;
Sec. 4, lots 2 to 7, incl., S½NW¼, N½SW¼, SE¼;
Sec. 9, NE¼NE¼;
Sec. 10, NW¼NE¼, N½NW¼.

The areas described in paragraphs 1 and 2 of this order aggregate approximately 41,231 acres, some of which have been patented and others of which are national forest lands. Portions of the lands are included in a withdrawal application Arizona 030451 of the Corps of Engineers, Department of the Army, as to which the regulations in 43 CFR 2311.1-2 (a) are applicable. The status of any tract may be ascertained by inquiry of the Manager of the Land Office hereinafter named.

3. The lands are located along the Gila River and its tributaries (Bonita Creek and Eagle Creek), from Sanchez to York Valley and along the San Francisco from its confluence with the Gila, to Evans Point. Access is relatively poor.

4. Until 10 a.m. on May 4, 1966, the State of Arizona shall have the preferred right of application to select the restored lands for school land indemnity purposes as provided by R.S. 2276 as amended (43 U.S.C. 852). The State also has a more limited preferred right of application for the restored land for highway easement or for highway material site purposes as provided by section 24 of the Act of June 10, 1920, as amended May 28, 1948 (62 Stat. 275; 16 U.S.C. 818).

5. At 10 a.m. on May 4, 1966, the public lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 8, 1965, shall be considered as simultaneously filed at that time. Those filed thereafter shall be considered in the order of filing.

6. The national forest lands shall be open at 10 a.m. on February 2, 1966, to such forms of disposition as may by law be made of national forest lands.

7. The lands have been open to applications and offers under the mineral leasing laws and to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the Manager, Land Of-

fice, Bureau of Land Management, Phoenix, Ariz.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 2, 1965.

[F.R. Doc. 65-12004; Filed, Nov. 8, 1965; 8:46 a.m.]

[Public Land Order 3862]

[Washington 05805]

WASHINGTON

Withdrawal for National Forest Roadside Zone

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the United States mining laws (Ch. 2, Title 30 U.S.C.) in aid of programs of the Department of Agriculture:

WENATCHEE NATIONAL FOREST

WILLAMETTE MERIDIAN

Blewett Pass Highway (U.S. 97-PSH 2) Roadside Zone

A strip of land 200 feet on each side of surveyed centerline of U.S. Highway 97 through the following described lands:

T. 20 N., R. 17 E.,
Sec. 3, lot 2, SW¼NE¼ and W½SE¼;
Sec. 10, W½NE¼.
T. 21 N., R. 17 E.,
Sec. 15, W½NE¼, E½SW¼ and NW¼SE¼;
Sec. 22, N½NW¼, SW¼NW¼, NW¼SW¼, N½SE¼SW¼ and SE¼SE¼SW¼;
Sec. 27, E½SW¼, E½NE¼NW¼ and SE¼NW¼;
Sec. 34, lot 3, E½NW¼ and NE¼SW¼ excepting patented HES-160.

The area described contains approximately 250 acres.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 2, 1965.

[F.R. Doc. 65-12005; Filed, Nov. 8, 1965; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 65-991]

PART 0—COMMISSION ORGANIZATION

Authority Delegated to Executive Director

Order. The Commission, having under consideration the amendment of § 0.231 of its rules concerning delegations of authority to the Executive Director; and

It appearing, that the Commission, on July 22, 1965, issued a Public Notice (FCC 65-669) stating that it would consider requests for waiver of the application filing fees for modification applications occasioned by natural disasters; and

It further appearing, that a delegation of authority to act upon such requests for waiver of the filing fees would serve to expedite the Commission's business; and

It further appearing, that requests for waiver of the filing fees should be acted upon by the Executive Director, upon securing the concurrence of the General Counsel; and

It further appearing, that the amendments adopted herein pertain to Commission management and organization, and hence the notice and effective date requirements of section 4 of the Administrative Procedure Act are not applicable; and

It further appearing, that the amendments adopted herein are issued pursuant to authority contained in section 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended:

It is ordered, Effective November 12, 1965, that § 0.231 of the Commission's rules is amended to add a new paragraph (c) to read as follows:

§ 0.231 Authority delegated.

* * * * *

(c) The Executive Director, or his designee, upon securing concurrence of the General Counsel, is delegated authority to act upon requests for waiver of the filing fee requirements for modification applications occasioned by natural disasters.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; sec. 5, 66 Stat. 713; 47 U.S.C. 303, 155)

Adopted: November 3, 1965.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12034; Filed, Nov. 8, 1965; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[Ex Parte No. MC-40]

PART 193—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Miscellaneous Amendments

At a session of the Interstate Commerce Commission, Motor Carrier Safety Board, held at its Office in Washington, D.C., on the 20th day of October A.D. 1965.

The matter of parts and accessories necessary for safe operation under the Motor Carrier Safety Regulations prescribed by order of April 14, 1952, as amended, being under consideration; and

It appearing, that on June 28, 1965, a notice of proposed rule making was issued in the above-numbered proceeding (30 F.R. 9206), proposing to amend § 193.50(b) and § 193.77 (b) and (c), of the Motor Carrier Safety Regulations,

It further appearing, that pursuant to such notice and the invitation contained therein, certain persons have submitted written statements containing data, views, and arguments concerning the proposed amendments, and that such statements have been carefully considered and, to the extent deemed justified, the proposed amendments have been modified accordingly;

Upon consideration of the record herein, and good cause appearing therefor;

It is ordered, That § 193.50(b) of Title 49, Code of Federal Regulations be, and it is hereby revised to read as follows:

§ 193.50 Reservoirs required.

* * * * *

(b) *Safeguarding of air and vacuum.* (1) On and after the effective date of this order, as provided in paragraph (c) of this section, every bus, truck, and truck-tractor, when equipped with air or vacuum reservoirs and regardless of date of manufacture, shall have such reservoirs so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum the air or vacuum supply in the reservoir shall not be depleted by the leak or failure.

(2) On and after the effective date of this order, means shall be provided to establish the check valve to be in working order. On and after May 1, 1966, means other than loosening or disconnection of any connection between the source of compressed air or vacuum and the check valve, and necessary tools for operation of such means, shall be provided to prove that the check valve is in working order. The means shall be readily accessible either from the front, side, or rear of the vehicle, or from the driver's compartment.

(i) In air brake systems with one reservoir, the means shall be a cock, valve, plug, or equivalent device arranged to vent a cavity having free communication with the connection between the check valve and the source of compressed air or vacuum.

(ii) Where air is delivered by a compressor into one tank or compartment (wet tank), and air for braking is taken directly from another tank or compartment (dry tank) only, with the required check valve between the tanks or compartments, a manually operated drain cock on the first (wet) tank or compartment will serve as a means herein required if it conforms to the requirements herein.

[1] Commissioner Hyde absent.

(iii) In vacuum systems stopping the engine will serve as the required means, the system remaining evacuated as indicated by the vacuum gauge.

* * * * *

It is further ordered, That § 193.77 (b) and (c) of Title 49, Code of Federal Regulations be and they are hereby amended by adding subparagraph (6) to paragraph (b) and amending subparagraph (12) of paragraph (c), as follows:

§ 193.77 **Heaters.**

On every motor vehicle, every heater shall comply with the following requirements:

* * * * *

(b) *Prohibited types of heaters.* The installation or use of the following types of heaters is prohibited:

* * * * *

(6) *Portable heaters.* Portable heaters shall not be used in any space occupied by persons except the cargo space of motor vehicles which are being loaded or unloaded.

(c) *Heater specifications.* All heaters shall comply with the following specifications:

* * * * *

(12) *Heater, automatic fuel control.* Gravity or siphon feed shall not be permitted for heaters using liquid fuels. Heaters using liquid fuels shall be equipped with automatic means for shutting off the fuel or for reducing such flow of fuel to the smallest practicable magnitude, in the event of overturn of the vehicle. Heaters using liquefied petroleum gas or fuel shall have the fuel line equipped with automatic means at the source of supply for shutting off the fuel in the event of separation, breakage, or disconnection of any of the fuel lines between the supply source and the heater.

* * * * *

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304)

It is further ordered, That this order shall become effective December 31, 1965, and shall remain in effect until the further order of the Commission.

And it is further ordered, That notice of this order shall be given to motor carriers, other persons of interest and to the general public by depositing a copy thereof in the Office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Motor Carrier Safety Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 65-12029; Filed, Nov. 8, 1965; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[9 CFR Part 304]

MEAT INSPECTION

Retailers' Exemptions; Application for Inspection

Notice is hereby given, in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003), that pursuant to the authority conferred by the Meat Inspection Act, as amended (21 U.S.C. 71–91), it is proposed to delete § 304.4 of the Meat Inspection Regulations (9 CFR 304.4) and to amend §§ 304.2 and 304.3 of said regulations (9 CFR 304.2, 304.3) as follows:

1. In § 304.2, paragraph (a) would be amended by adding the following proviso before the period at the end of the first sentence: "*Provided, however,* That any applicant for inspection who held a certificate of exemption as a retail butcher or retail dealer immediately prior to making application for inspection may submit the drawings and plot plan required by this paragraph at any time within 1 year after making such application."

2. Section 304.3 would be amended to read:

§ 304.3 Retailers' exemptions.

(a) *Statutory provisions; interpretation of term "consumer."* The Meat Inspection Act authorizes the Secretary of Agriculture, at his discretion, to permit any retail butcher or retail dealer to transport in interstate or foreign commerce to consumers and meat retailers in any one week not more than 5 carcasses of cattle, 25 carcasses of calves, 20 carcasses of sheep, 25 carcasses of lambs, 10 carcasses of swine, 20 carcasses of goats, or 25 carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in such commerce to consumers only salted, cured, canned or otherwise prepared meat or meat food products, which have not been inspected and marked as "Inspected and Passed" in accordance with the Act and the regulations thereunder. The term "consumer" is interpreted to mean household consumer, restaurant, hotel, boarding house, hospital, or similar institution as determined by the Director of Division.

(b) *Definition of retail butcher and dealer.* The Act defines a "retail butcher" and a "retail dealer" to mean any person, partnership, association, or corporation chiefly engaged in selling meat or meat food products to consumers only. In administration of the Act, any person, partnership, association or corporation will be deemed to be chiefly engaged in selling meat or meat food products to consumers only, if more than 50 percent of the meat and meat food products sold by such entity and all its affiliates are sold to consumers. Any such entity will be deemed to be a retail butcher or dealer under the Act only if in each quarter of the calendar year, the average weekly volume of fresh meat sold by it and all its affiliates does not exceed 35,000 pounds and the average weekly volume of prepared meat and meat food products sold by it and all its affiliates does not exceed 20,000 pounds. For the purposes of this paragraph, any entity that controls, is controlled by, or is under common control with any other entity shall be deemed to be an affiliate of the latter.

(c) *Application for exemption.* Application for permission to transport products which have not been inspected, examined, and marked as inspected and passed may be made by any retail butcher or retail dealer as defined in paragraph (b) of this section. A separate application shall be made with respect to each establishment for which such permission is desired. A separate conditional exemption conferring such permission will be granted and evidenced by an exemption certificate with respect to each eligible establishment.

(d) *Conditions of exemption.* Exemption will not be granted for any establishment if any business is transacted at the establishment in the name of anyone other than the applicant, e.g. in the name of a parent company, subsidiary, or tenant of the applicant; or if the establishment is not regularly maintained in a sanitary condition and consistently operated in a manner that will insure compliance with paragraph (e) of this section; or unless more than 50 percent of the meat and meat food products sold at the establishment by the retail butcher or retail dealer are sold to consumers.

(e) *Requirements applicable to exempted retailers.* (1) Exempted retailers shall, with respect to the operation of their exempted establishments, conform to the same regulations in Parts 301–328 of this subchapter as apply to official establishments to the extent such regulations are applicable, including but not limited to the regulations regarding labeling, the use of dyes, chemicals, and preservatives, and the prescribed treatment of pork to destroy trichinae as required under Part 318 of this subchapter.

(2) On request of the Director of Division, or an employee designated by him, each exempted retailer shall furnish such information concerning his business and operations as is relevant with respect to the exemption of his establishment or establishments under this section. Each such retailer shall maintain adequate records of all of his sales of meat and meat food products for Division review.

(f) *Effect of exemption.* (1) Exemption under this section will authorize the exempted retailer to transport to consumers and meat retailers in any one week from all of his exempted establishments a total of not in excess of the numbers of carcasses of cattle, calves, sheep, lambs, swine, goats, and goat kids, specified in paragraph (a) of this section, or the fresh meat equivalent thereof, which have not been inspected, examined and marked as inspected and passed in accordance with the Act and regulations in Parts 301 through 328 of this subchapter, and to transport to consumers only within the limits permitted under paragraph (b), salted, cured, canned, or otherwise prepared meat or meat food products which have not been so inspected, examined and marked.

(2) Exemption under this section will authorize transportation of such products by the exempted retailer or the eligible customer, or the employees of such retailer or customer, and the offer of such products by such retailer, customer, or employees to a common or other carrier for transportation, and the receipt and transportation of such products by such carrier, in accordance with the Act and this section.

(3) Exemption under this section will authorize the transportation of such products only for the purpose of supplying the customers of the exempted retailer; and carcasses, fresh meat, and prepared meat and meat food products transported under such an exemption to a consumer-customer shall be delivered directly to the domicile or food-preparation facility of such consumer, and carcasses or fresh meat transported under such an exemption to a meat retailer-customer shall be delivered directly to the retail store of such retailer.

(g) *Withdrawal of exemption.* Exemption under this section may be withdrawn and the exemption certificate canceled by the Director of Division with respect to one or more exempted establishments operated by any exempted retail butcher or retail dealer under this section, as provided in § 304.2 or if he determines that the exemption holder no longer qualifies for exemption under paragraph (b) of this section or that there exists any condition specified in paragraph (d) of this section which would disqualify the establishment or establishments for exemption under this section, or that the exemption holder has failed to comply with any requirement under paragraph (e) or (f) of this section or any other applicable provision of the regulations in Parts 301–328 of this subchapter or of the Meat Inspection Act.

Statement of considerations. The retailers' exemption provisions of the Meat Inspection Act were intended to provide exemption for the small retail meat dealer or butcher supplying his customers, principally consumers, across state

boundaries. The term "consumer" is not defined in the Act but is construed to include a restaurant, hotel, boarding house, or similar institution, as well as a household consumer. Modern developments in merchandising and marketing have changed the methods of meat distribution in recent years, and there has evolved the large volume operator specializing in sales to hotels and restaurants. Such operators are deemed not to be the kind of operators contemplated by the Congress in the retailers' exemption provisions of the Act, and the amendments of the regulations are proposed in order to limit the retailers' exemptions under the Act more closely to the class of operators intended by the exemption provisions of the law.

Provision would be made in the amendments to permit currently exempted operators who would not qualify for exemption under the amendments, to obtain Federal inspection without interruption of their business operations, by allowing them one year to meet the requirements for submission of drawings and plot plans incidental to obtaining inspection.

Any person who wishes to submit written data, views or arguments concerning the proposed amendments may do so by filing them with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, within 30 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 4th day of November 1965.

R. K. SOMERS,
Deputy Administrator,
Consumer and Marketing Service.

[F.R. Doc. 65-12051; Filed, Nov. 8, 1965; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 16183]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS

Eureka, Calif.; Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.606 Table of Assignments, Television Broadcast Stations, Eureka, Calif., Docket No. 16183, RM-776.

1. In a notice of proposed rule making released on September 10, 1965, the Commission invited comments and reply comments from interested parties on or before October 18, 1965, and November 3, 1965, respectively, in the above entitled proceeding (FCC 65-778).

2. On October 28, 1965, Redwood Empire Educational Television, Inc. filed a "Request for Extension of Time to File Comments" stating that in view of certain developments which have taken place in the last few days, it will need additional time to study the opposition comments before preparing and filing its reply. On October 28, 1965, the Television Advisory Committee of the State of California through its Television Coordinator filed a "Petition to Extend Period for Reply Comments", stating that since the comments of T. & R. Broadcasters, Inc. opposing the petition of Redwood Empire Educational Television, Inc. were not made available to it until October 25, 1965, it is not possible to consider this matter and file reply comments prior to its next meeting scheduled for November 10, 1965. The extension requested is in both cases 30 days.

3. The Commission is of the view that good cause has been shown and that the requested extension of time should be granted. Accordingly, notice is hereby given that the time for filing reply comments in the above-entitled proceeding is extended from November 3, 1965, to December 3, 1965. Authority for this action is contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: November 3, 1965.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12035; Filed, Nov. 8, 1965; 8:49 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R-293]

NATURAL GAS PIPELINE COMPANY CERTIFICATE APPLICATIONS

Provision for Reserve Capacity

NOVEMBER 2, 1965.

The Commission is considering the issuance of a Statement of Policy with respect to applications for certificates of public convenience and necessity which may be filed by natural-gas pipeline companies pursuant to §§ 157.6, 157.13 and 157.14 of its regulations under the Natural Gas Act. The statement is intended as a guide to the companies in the filing of their applications to meet the anticipated future needs of their customers. Prior to the issuance of the statement it would be helpful to receive the comments of any interested persons with regard both to its content and the advisability of its promulgation. It is for this reason that we are giving prior notice of our proposed statement even though not required to do so by either the Natural Gas Act or the Administrative Procedure Act. We, therefore, give notice that we are considering the issuance of a statement of policy in substantially the following form:

Statement of general policy. It has been the practice before the Commission in the past for established pipeline companies to file an application annually for additional capacity needed to meet the growth in the coming year. Under this procedure pipeline companies have customarily applied only for sufficient capacity to meet their peak requirements for the coming winter with little or no margin of reserve capacity.

The Commission is aware that an increasing number of such annual expansions are being contested. If for any reason the annual expansion of any natural gas pipeline company cannot be processed expeditiously emergency situations are often created. In addition, pipelines with little or no reserve capacity have greater need for operating at pressures which may exceed reasonable design limitations and thus adversely affect their safe operation. Such reserve capacity would also provide the companies with greater flexibility in providing service to all of their customers and would provide added incentive to market their product at the lowest reasonable price.

The Commission has considered these matters in light of its recent experience and has decided to adopt a policy of encouraging the established pipeline companies subject to its jurisdiction to plan their future expansions so as to provide reserve capacity in the order of one year's growth. The costs associated with such reserve capacity that has been certificated would be considered a prudent investment in any rate proceeding. We believe the construction and operating savings resulting from longer-range planning and other advantages previously mentioned would offset the small addition to the rate base. The Commission reserves the right to reject or condition any such applications if in the particular circumstances the increase in capacity would not be necessary or desirable in the interest of improved service.

Our existing rules, particularly those cited above, appear to be adequate to permit applications containing reserve capacity. Accordingly, Part 2, Subchapter A, Chapter I of Title 18 of the Code of Federal Regulations is amended by adding at an appropriate point the following new section or paragraph:

Applications by natural gas pipeline companies for certificates of public convenience and necessity which provide for expansion of capacity in excess of anticipated peak loads in the order of one year's growth in load (based in general on the average growth over the 5 years preceding the application, but subject to adjustment for special factors affecting any given company) will be accepted for filing and will be processed under our expedited procedures in the absence of unusual circumstances or protest by interested third parties.

Any person may submit to the Federal Power Commission, Washington, D.C., 20426, not later than December 1, 1965, any comments or suggestions concerning the proposed statement. An original and nine conformed copies of any such submittal should be filed. The Commis-

sion will consider any such written submittals before acting on the proposed Policy Statement.

By direction of the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11987; Filed, Nov. 8, 1965; 8:45 a.m.]

[18 CFR Part 157]

[Docket No. R-290]

OPERATION OF NATURAL GAS PIPELINE FACILITIES AT EXCESS PRESSURES

General Conditions Applicable to Certificates Issued to Pipeline Companies

NOVEMBER 2, 1965.

1. Notice is given pursuant to section 4 of the Administrative Procedure Act that the Commission proposes to prescribe a new general condition applicable to certificates of public convenience and necessity issued to natural gas pipeline companies, which would plainly prohibit the operation of facilities under certificate authorization at pressures in excess of those specified in the Exhibits G, G–I, and G–II which accompany the applications for certificates.

2. Section 7(c) of the Natural Gas Act makes unlawful, inter alia, the transportation or sale of natural gas, subject to the jurisdiction of the Commission, or the construction or extension of any facilities therefor, in the absence of a certificate issued by the Commission authorizing such acts or operations.

The Commission presently requires certificate applicants to indicate in Exhibits G, G–I, and G–II to their applications the specifications of the proposed facilities, the pressures at which they will be operated, and the volume of gas which they are designed to transport to render the service for which they are to be constructed (18 CFR 157.14(a)(7), (8), and (9)). The Commission relies on this information, as it may be supplemented in the hearings, to determine whether proposed facilities are or will be required by the present or future public convenience and necessity.

The Commission, in issuing certificates of public convenience and necessity, uniformly authorizes facilities and operations as described in the application, except as modified in the order granting the certificate. Authorization necessarily includes a finding that the facilities so described are required by the public convenience and necessity and are adequate, when operated as described, to perform the services proposed in the application.

It has come to our attention that some facilities authorized by section 7 certificates may be operated at pressures in excess of those upon which the Commission based its determination that they should be authorized. In such cases, the physical stress on the facilities is greater than was indicated in the application, thereby increasing the risk of failure or reducing the potential service life of the facilities.

3. Accordingly, it is proposed to amend § 157.20, Subchapter E, Chapter I of Title 18 of the Code of Federal Regulations by adding a new paragraph (f) to read as follows:

§ 157.20. General conditions applicable to certificates.

* * * * *

(f) The facilities authorized by the certificate shall not be operated at pressures exceeding the design operating pressures set forth in Exhibits G, G–I, and G–II to the application or as modified by the hearing exhibits.

4. This amendment to the Commission's regulations is proposed to be issued under the authority of the Natural Gas Act, as amended, particularly sections 7, 16, and 20 thereof (52 Stat. 825, 830, 832, 56 Stat. 84, 15 U.S.C. 717f, 717o, 717s).

5. Any interested person may submit in writing to the Federal Power Commission, Washington, D.C., 20426, not later than December 1, 1965, data, views, comments and suggestions concerning the proposed reporting requirement. An original and nine conformed copies of any such submittal should be filed. The Commission will consider any such submittals before acting on the proposed reporting requirement.

By direction of the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11988; Filed, Nov. 8, 1965; 8:45 a.m.]

[18 CFR Parts 201, 204]

[Docket No. R-292]

ACCOUNTING FOR MEASURING AND REGULATING STATIONS

Uniform System of Accounts Prescribed for Classes A, B, and C Natural Gas Companies

NOVEMBER 2, 1965.

1. Pursuant to section 4 of the Administrative Procedure Act, the Commission gives notice that it is proposing to amend the Uniform System of Accounts applicable to Classes A, B, and C natural gas companies, so as to eliminate the instruction permitting optional accounting for measuring and regulating stations as either a transmission or distribution plant item.

2. The instruction, which includes the "exception" clause proposed for deletion, which appears not only in the Gas Plant Instructions but also in the notes appended to Accounts 369 and 379, provides in pertinent part:

* * * Pipeline companies, however, shall include city gate and main line industrial measuring and regulating stations in the transmission function, except that where pipeline companies measure deliveries of gas to their own distribution systems they shall have the option, if consistently observed, of including such stations either in the transmission or distribution function for the purposes of this system of accounts.

3. Although the elimination of the option now permitted would be in keeping with sound uniform accounting practices, the primary purpose of our proposal is to clarify the eligibility of the property concerned with respect to the investment tax credit percentage to be allowed. The existence of the option in the systems of accounts poses a problem for the Internal Revenue Service since the Internal Revenue Code, as amended in 1962 and 1964 (26 U.S.C. 38, 46(a), 46(c)) provides, in effect, that transmission plant acquisitions would be allowed a 7 percent credit and distribution plant would be allowed a 3 percent credit.

4. The changes being proposed have been considered by representatives of the natural gas industry, the liaison committee of the American Institute of Certified Public Accountants and by the Committee on Accounts of the National Association of Railroad and Utilities Commissioners. There was a near-unanimous agreement that the changes should be made.

5. We are, therefore, proposing to amend the Uniform System of Accounts, prescribed for Classes A, B, and C natural gas companies by Parts 201 and 204, respectively, Subchapter F of Chapter I, Title 18 of the Code of Federal Regulations, as follows:

a. Delete from the last sentence of Gas Plant Instruction 14.A in Part 201 and 12.A in Part 204 the clause reading "except that where pipeline companies measure deliveries of gas to their own distribution systems they shall have the option, if consistently observed, of including such stations either in the transmission or distribution function for the purposes of this system of accounts".

As so amended the sentence will read: "Gas Plant Instructions".

* * * * *

14.[12] *Transmission and distribution plant.* For the purposes of this system of accounts:

A. "Transmission system" * * *

Pipeline companies, however, shall include city gate and main line industrial measuring and regulating stations in the transmission functions.

b. Delete the substantially similar "exception" clause, from the Note appended to Accounts 369 and 379 as they appear, respectively, in Parts 201 and 204.

c. The amendments proposed in a., above, will require conforming amendments to the two instructions. Accordingly delete the words "inlet side" appearing in the second sentence of paragraphs A. and B. of the gas plant instructions 14 and 12, respectively, referred to in a., above, and in lieu thereof insert the words "outlet side."

6. These amendments to the Commission's Uniform System of Accounts are proposed to be issued under the authority of the Natural Gas Act, as amended, particularly sections 8 and 16 thereof (52 Stat. 825, 830; 15 U.S.C. 717g, 717o).

7. Any interested person may submit to the Federal Power Commission, Washington, D.C., 20426, on or before December 1, 1965, data, views and comments in writing concerning the

amendments proposed herein. The Commission will consider these written submittals before taking any action upon the proposed amendments. An original and nine (9) copies of any such submittals should be filed.

By direction of the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11989; Filed, Nov. 8, 1965; 8:45 a.m.]

[18 CFR Part 260]

[Docket No. R-291]

CERTIFICATED FACILITIES OF NATURAL GAS PIPELINE CO.

Telegraphic Reporting of Accidents

NOVEMBER 2, 1965.

1. Notice is given pursuant to section 4 of the Administrative Procedure Act that the Commission proposes to require natural gas pipeline companies subject to its jurisdiction to report immediately upon occurrence accidents or transmission system operating failures which (1) require the taking out of service of a section of pipeline, or which result in (2) gas escaping from a pipeline and igniting, or (3) fatality or serious injury, or (4) property damage of $1,000 or more. The Commission would be notified by telegram immediately upon the occurrence of any such accident or failure, with a detailed report to follow within 10 days.

2. The proposed requirement will enable the Commission to keep informed of developments in this area of pipeline operation. At the present time, individual companies commonly report particular incidents to the Commission, but there is no standard of what constitutes a reportable accident, or of the manner in which reports should be made. In Docket No. R-283, noticed September 20, 1965, 30 F.R. 12361, the Commission is proposing, inter alia, to amend the Annual Report Form for Natural Gas Companies (Forms 2 and 2A) by providing a new definition of the accidents which are required to be reported on page 568 of the Form 2 and by specifying the information which should be supplied in the reports. The instant proposal supplies a definition of a reportable accident which conforms to the standard proposed in Docket No. R-283, subject to any changes which may be made to that proposal.

Upon the occurrence of a reportable accident, the Commission should be informed immediately of the time and place and the extent of damage. The follow-up report should furnish, to the extent then available, the details which are called for in the proposed revision of page 568 of the FPC Form No. 2, Docket No. R-283.

3. This amendment to the Commission's regulations is proposed to be issued under the authority of the Natural Gas Act, particularly sections 7, 10, 14, and 16 (52 Stat. 824-830, 56 Stat. 84; 15 U.S.C. 717f, 717i, 717m, 717o).

4. Accordingly, it is proposed to amend Part 260, Subchapter G, Chapter I of Title 18 of the Code of Federal Regulations by adding a new section to read as follows:

§ 260.9. Report by natural gas pipeline companies immediately upon occurrence of serious accidents.

Every natural gas pipeline company shall report to the Commission by telegram any accident or transmission system operating failure involving facilities operated under certificate authorization from the Commission which (a) requires taking any segment of pipeline out of service, or which result in (b) gas escaping from the pipeline and igniting, or (c) property damage of $1,000 or more, or (d) fatality or personal injury requiring hospitalization. The telegram shall be sent immediately following the accident and shall state briefly the location and time of the accident and the extent of injuries and fatalities. Within 10 days after the accident, all available details (requested at pages 568-568B of the FPC Form No. 2) shall be reported to the Commission by mail.

5. Any interested person may submit in writing to the Federal Power Commission, Washington, D.C., 20426, not later than December 1, 1965, data, views, comments and suggestions concerning the proposed reporting requirements. An original and nine conformed copies of any such submittal should be filed. The Commission will consider any such submittals before acting on the proposed reporting requirement.

By direction of the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11990; Filed, Nov. 8, 1965; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

OCTOBER 29, 1965.

Notice of an application, Serial No. Anchorage 061928, for withdrawal and reservation of lands was published as F.R. Doc. 64–13109 on page 18182 of the issue for December 22, 1964. The applicant agency has cancelled its application so far as it involves the lands described below. Therefore, pursuant to the regulations contained in 43 CFR 2311 (formerly 43 CFR Part 295), such lands will be at 10 a.m. on November 15, 1965, relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

GIBSON COVE AREA, KODIAK ISLAND, ALASKA

A tract of land situated between the Abbert Highway Right-of-Way and St. Paul Harbor, within U.S. Survey No. 2539, at the Eastern end of Gibson Cove and more particularly described as:

Beginning at a point at the intersection of the right-of-way of the Abbert Highway as shown on Bureau of Public Roads Project No. AD–2(3) Sheet "As Built" and the line of Mean High Water of St. Paul Harbor, said point lying S. 50°40' W., approximately 547 feet from Meander Corner No. 1, U.S. Survey 2537B (Tract A) which is also Meander Corner No. 12, U.S. Survey No. 2539; thence on a 3°16' curve right with a tangency of 16°53' and a radius of 1,759.85 feet for a distance of approximately 205 feet to the point of tangency; thence along a tangent S. 74°52'50'' W., 1,038.9 feet, to a point of curvature; on a 10°07' curve to the left with a tangency of 26°38' and a radius of 566.20 feet for a distance of 263.18 feet to the point of tangency; south, approximately 105 feet to the line of mean high water; easterly, along the line of mean high water to the point of beginning of this description.

The area described aggregates approximately 10 acres.

BURTON W. SILCOCK,
State Director.

[F.R. Doc. 65–12003; Filed, Nov. 8, 1965; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

RICE

Notice of Marketing Quota Referendum for 1966 Crop

Marketing quotas for the crop of rice to be produced in 1966 have been duly proclaimed pursuant to provisions of the Agricultural Adjustment Act of 1938, as amended. Said act requires a referendum to be conducted within 30 days after the date of the issuance of said proclamation, of farmers who were engaged in the production of rice in 1965 to determine whether such farmers are in favor of or opposed to such quotas. Prior to establishing the date for the referendum on the 1966 crop rice, public notice (30 F.R. 12684) was given in accordance with the Administrative Procedure Act (5 U.S.C. 1003). No data, views, or recommendations pertaining thereto were submitted pursuant to such notice. It is hereby determined that the rice marketing quota referendum under said act for the 1966 crop of rice shall be held on November 23, 1965, which is within 30 days from the date of issuance of the proclamation of marketing quotas.

The date of the referendum is within 30 days after the date of the issuance of the proclamation of marketing quotas on the 1966 crop of rice, as required by law. Accordingly, it is necessary to waive the 30-day effective date provision of the section 4 of the Administrative Procedure Act, and this document shall become effective upon its publication in the FEDERAL REGISTER.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 28th, 1965.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65–12021; Filed, Nov. 8, 1965; 8:48 a.m.]

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

November Sales List

Notice to buyers. Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F.R. 6669), and subject to the conditions stated therein as well as herein, the commodities listed below are available for sale and, where noted, for redemption of payment-in-kind certificates on the price basis set forth.

The prices at which Commodity Credit Corporation commodity holdings are available for sale during November 1965 are as announced by the U.S. Department of Agriculture. The following commodities are available: Butter, cheddar cheese, nonfat dry milk, cotton (upland and extra long staple), wheat, corn, oats, barley, rye, rice, grain sorghum, peanuts, flax and linseed oil.

The November list of commodities is unchanged from October.

Corn, oats, barley or grain sorghum, as determined by CCC, will be sold for unrestricted use for "Dealers' Certificates" issued under the emergency livestock feed program. Grain delivered against such certificates will be sold at the applicable current market price, determined by CCC.

In the following listing of commodities and sales prices or method of sales, "unrestricted use" applies to sales which permit either domestic or export use and "export" applies to sales which require export only. CCC reserves the right to determine the class, grade, quality and available quantity of commodities listed for sale.

The CCC Monthly Sales List, which varies from month to month as additional commodities become available or commodities formerly available are dropped, is designed to aid in moving CCC's inventories into domestic or export use through regular commercial channels.

If it becomes necessary during the month to amend this list in any material way—such as by the removal or addition of a commodity in which there is general interest or by a significant change in price or method of sale—an announcement of the change will be sent to all persons currently receiving the list by mail from Washington. To be put on this mailing list, address: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C., 20250.

Interest rates per annum under the CCC Export Credit Sales Program (Announcement GSM–3) for November 1965 are 4½ percent for periods up to and including 12 months, and 5 percent for periods from over 12 months up to a maximum of 36 months. Commodities currently offered for sale by CCC, plus tobacco from CCC loan stocks, are available for export sale under the CCC Export Credit Sales Program as provided under specific commodity listings. Commodities from private stocks now eligible for financing under the CCC Export Credit Sales Program include wheat, wheat flour, bulgur, corn, cornmeal, grain sorghum, upland and extra long staple cotton, tobacco, milled and brown rice, cottonseed oil, soybean oil, and dairy products.

The following commodities are available for programming under Title IV, P.L. 480, private trade agreements: Wheat, corn, rice, grain sorghum, upland and extra long staple cotton, tobacco from CCC loan stocks, butter, cheese, and nonfat dry milk. In addition, other surplus agricultural commodities are also eligible for Title IV programming. Information on commodities available under this program, and current information on interest rates and other

phases of the program may be obtained from the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250.

The following commodities are currently available for barter: Cotton (upland and extra long staple), tobacco, wheat, corn, grain sorghum, butter, and nonfat dry milk. (In addition, free market stocks of cottonseed and soybean oils are eligible for barter programming.) This list is subject to change from time to time.

The CCC will entertain offers from responsible buyers for the purchase of any commodity on the current list. Offers accepted by CCC will be subject to the terms and conditions prescribed by the Corporation. These terms include payment by cash or irrevocable letter of credit before delivery of the commodity, and the conditions require removal of the commodity from CCC stocks within a reasonable period of time. Where sales are for export, proof of exportation is also required, and the buyer is responsible for obtaining any required U.S. Government export permit or license. Purchases from CCC shall not constitute any assurance that any such permit or license will be granted by the issuing authority.

Applicable announcements containing all terms and conditions of sale will be furnished upon request. For easy reference a number of these announcements are identified by code number in the following list. Interested persons are invited to communicate with the Agricultural Stabilization and Conservation Service, USDA, Washington, D.C., 20250, with respect to all commodities or—for specified commodities—within the designated ASCS Commodity Office.

Commodity Credit Corporation reserves the right to amend, from time to time, any of its announcements. Such amendments shall be applicable to and be made a part of the sale contracts thereafter entered into.

CCC reserves the right to reject any or all offers placed with it for the purchase of commodities pursuant to such announcements.

CCC reserves the right to refuse to consider an offer, if CCC does not have adequate information of financial responsibility of the offerer to meet contract obligations of the type contemplated in this announcement. If a prospective offerer is in doubt as to whether CCC has adequate information with respect to his financial responsibility, he should either submit a financial statement to the office named in the invitation prior to making an offer, or communicate with such office to determine whether such a statement is desired in his case. When satisfactory financial responsibility has not been established, CCC reserves the right to consider an offer only upon submission by offerer of a certified or cashier's check, a bid bond, or other security, acceptable to CCC, assuring that if the offer is accepted, the offerer will comply with any provisions of the contract with respect to payment for the commodity and the furnishing of performance bond or other security acceptable to CCC.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered by the appropriate ASCS office promptly upon appearance and therefore, generally, they do not appear in the monthly sales list.

On sales for which the buyer is required to submit proof to CCC of exportation, the buyer shall be regularly engaged in the business of buying or selling commodities and for this purpose shall maintain a bona fide business office in the United States, its territories or possessions and have a person, principal or resident agent upon whom service of judicial process may be had.

Prospective buyers for export should note that generally, sales to U.S. Government agencies, with only minor exceptions will constitute domestic unrestricted use of the commodity.

Commodity Credit Corporation reserves the right, before making any sales, to define or limit export areas.

The Department of Commerce, Bureau of International Commerce, pursuant to regulations under the Export Control Act of 1949, prohibits the exportation or re-exportation by anyone of any commodities under this program to Cuba, the Soviet Bloc or Communist-controlled areas of the Far East including Communist China, North Korea and the Communist-controlled area of Vietnam, except under validated license issued by the U.S. Department of Commerce, Bureau of International Commerce.

For all exportations, one of the destination control statements specified in Commerce Department regulations (Comprehensive Export Schedule, § 379.10(c)) is required to be placed on all copies of the shipper's export declaration, all copies of the bill of lading, and all copies of the commercial invoices. For additional information as to which destination control statement to use, the exporter should communicate with the Bureau of International Commerce or one of the field offices of the Department of Commerce.

Exporters should consult the applicable Commerce Department regulations for more detailed information if desired and for any changes that may be made therein.

Sales Price or Method of Sale

WHEAT, BULK

Unrestricted use.

A. *Nonstorable.* Such dispositions of nonstorable wheat as CCC may designate will be made at not less than market price, as determined by CCC.

B. All sales of storable wheat for unrestricted use have been suspended until further notice. However, the following markups and examples are furnished for use in any upward adjustment in price which becomes necessary under CCC sales programs.

C. *Markup and examples (dollars per bushel—in store).*

Markup in-store received by—		Examples—Agricultural Act of 1949 Stat. minimum [2]
Truck	Rail or barge	
$0.11	$0.07¾	Minneapolis—No. 1 DNS (1.58); 105 percent, $0.07¾; $1.73¾. Portland—No. 1 SW (1.44); 105 percent, $0.07¾; $1.59¾. Kansas City—No. 1 HW (1.43); 105 percent, $0.07¾; $1.58¾. Chicago—No. 1 RW (1.49); 105 percent, $0.07¾; $1.64¾.

D. *Availability information.* For information on the disposition of nonstorable wheat, contact the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices shown at the end of this sales list.

Export.

Sales will be made pursuant to the following announcements:

A. Announcement GR–345 (Revision III, Aug. 25, 1964) as amended for export under the wheat export payment-in-kind program. When hard winter wheat is delivered on the West Coast by CCC to cover sales under GR–345, evidence of export must show exportation from West Coast ports.

B. Announcement GR–346 (Revision I,) as amended for export as flour.

C. Announcement GR–261 (Rev. 2, Jan. 9, 1961, as amended and supplemented) for export as wheat and under Announcement GR–262 (Rev. 2, Jan. 9, 1961, as amended) for export as flour for application under arrangements for barter and approved CCC credit sales only at prices determined daily. Hard winter wheat will not be sold through West Coast ports under Announcements GR–261 or GR–262.

D. *Available.* Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

CORN, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of corn as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The price at which corn shall be valued for such dispositions shall be the highest of (a) market price as determined by CCC, (b) a minimum price for such corn as determined by CCC and, (c) the payment-in-kind formula price for such redemptions. Such formula price shall be the applicable 1965 price-support loan rate for the class, grade and quality of the corn plus the amount shown in C of this unrestricted use section.

B. *General sales.*

1. *Storable.* Such CCC dispositions of storable corn as CCC may designate as general sales will be made during the month at market price, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1965 price-support rate [3] (published loan rate plus 20 cents per bushel) for the class, grade, and quality of the corn, plus the amount shown in C of this unrestricted use section. For corn in store at other than the point of production, the freight and handling charges from point of production to the present point of storage will also be added. CCC will normally make general sales of corn when dispositions of such corn are not being made against domestic payment-in-kind certificates.

2. *Nonstorable.* Such dispositions of nonstorable corn as CCC may designate as general sales will be made at not less than market price, as determined by CCC.

C. *Markups and examples (dollars per bush in-store[1] basis No. 2 yellow corn, 14 percent M.T. 2 percent F.M.)*

Markup in-store received by—	Examples
Truck	
$0.05¾	Feed grain program domestic PIK certificate minimums: McLean County, Ill. ($1.06 and $0.03 and $0.05¾); $1.14¾. Chicago, Ill. (ex-McLean County by rail); County minimum plus freight and handling charges($1.14¾)and $0.00¾) and $0.08½ and $0.01¾); $1.25¾). Agricultural Act of 1949 stat. minimums: McLean County, Ill. ($1.06 and $0.20 and $0.03); 105 percent and $0.05¾); $1.41¾). Chicago, Ill. (ex-McLean County by rail); County minimum plus freight and handling charges ($1.41¾) and $0.00¾) and $0.08½ and $0.01¾); $1.52¾).

D. *Availability information.* For information on CCC corn sales and payments-in-kind from bin sites, contact ASCS State or county offices. For information on the disposition of corn from other locations, contact the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices shown at the end of this sales list.

Export.

Sales for barter and credit are made at the applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at barter and credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the adjustment referred to in C of the unrestricted use section for corn. Sales will be made pursuant to the following announcement:

A. Announcement GR-212 (Revision 2, January 9, 1961), for application to approved CCC barter and credit sales.

B. *Available.* Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

GRAIN SORGHUM (BULK)

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of grain sorghum as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which grain sorghum shall be valued for such dispositions shall be market price, but not less than the payment-in-kind formula price for such redemption. Such formula price shall be the applicable 1965 price-support loan rate for the class, grade, and quality of the grain sorghum, plus the amount shown in C of this unrestricted use section applicable to the type of carrier involved.

B. *General sales.*

1. *Storable.* Such CCC dispositions of storable grain sorghum as CCC may designate as general sales will be made during the month at market price, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1965 price-support rate[2] (published loan rate plus 35 cents per cwt.) for the class, grade, and quality of the grain sorghum, plus the amount shown in C of this unrestricted use section applicable to the type of carrier involved. If delivery is outside the area of production, applicable freight and handling charges will be added. Examples of these formula minimum prices are shown in C of this unrestricted use section. CCC will normally make general sales of grain sorghum when dispositions of such grain sorghum are not being made against domestic payment-in-kind certificates.

2. *Nonstorable.* Such dispositions of nonstorable grain sorghum as CCC may designate as general sales will be made at not less than market price, as determined by CCC.

C. *Markups and examples (dollars per hundredweight in-store[1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.19	$0.13¼	Feed Grain program domestic PIK certificate minimums: Hale County, Tex. ($1.63 and $0.19); $1.82. Kansas City, Mo. (ex-rail) ($1.93 and $0.13¼); $2.06¼. Agricultural Act of 1949: stat. minimums: Hale County, Tex. ($1.63 and $0.35); 105 percent and $0.19; $2.27. Kansas City, Mo. (ex-rail) ($1.93 and $0.35); 105 percent and $0.13¼; $2.53¾.

D. *Availability information.* For information on CCC grain sorghum sales and payments-in-kind from bin sites, contact ASCS State or county offices. For information on the disposition of grain sorghum from other locations, contact the Kansas City, Evanston, Portland, or Minneapolis ASCS grain offices shown at the end of this sales list.

Export.

Sales are made at the applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at barter and credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the adjustment referred to in C of the unrestricted use section for grain sorghum. Sales will be made pursuant to the following announcements:

A. Announcement GR-368 (Revision II March 1, 1965), feed grain export payment-in-kind program.

B. Announcement GR-212 (Revision 2, January 9, 1961), for application to arrangements for barter, approved CCC credit and other designated sales.

C. *Available.* Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

BARLEY, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of barley as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which barley shall be valued for such dispositions shall be market price, as determined by CCC, but not less than the payment-in-kind formula price for such redemptions. Such formula price shall be the applicable 1965 price-support loan rate for the class, grade, and quality of the barley, plus the amount shown in C of this unrestricted use section applicable to the type of carrier involved.

B. *General sales.*

1. *Storable.* Such CCC dispositions of storable barley as CCC may designate as general sales will be made during the month at market price, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1965 price-support rate[2] (published loan rate plus 16 cents per bushel) for the class, grade, and quality of the barley, plus the amount shown in C of this unrestricted use section, applicable to the type of carrier involved. Examples of these formula minimum prices are shown in C of this unrestricted use section. If delivery is outside the area of production, applicable freight and handling charges will be added. CCC will normally make general sales of barley when dispositions of such barley are not being made against domestic payment-in-kind certificates.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per bushel in-store[1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.10¼	$0.07¾	Feed grain program domestic PIK certificate minimums: Cass County, N. Dak. ($0.76 and $0.10¼); $0.86¼. Minneapolis, Minn. (exrail) ($0.99 and $0.07¾); $1.06¾. Agricultural Act of 1949; stat. minimums: Cass County, N. Dak. ($0.76 and $0.16); 105 percent and $0.10¼; $1.07¼. Minneapolis, Minn. (exrail) ($0.99 and $0.16); 105 percent and $0.07¾; $1.28¾.

D. *Availability information.* For information on CCC barley sales from bin sites, contact ASCS State or county offices. For information on the disposition of barley from other locations, contact the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices shown at the end of this sales list.

Export.

Sales are made at the applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the adjustment referred to in C of the unrestricted use section for barley. Sales will be made pursuant to the following announcements except that barley will not be sold for applications to Title I, or Title IV, P.L. 480 purchase authorizations or for barter.

A. Announcement GR-368 (Revision II March 1, 1965), feed grain export payment-in-kind program.

B. Announcement GR-212 (Revision 2, January 9, 1961), for application to approved CCC credit sales.

C. *Available.* Evanston and Kansas City ASCS offices. Stocks in Duluth or Minneapolis will be available through the Minneapolis ASCS grain office.

OATS, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 105 percent of the applicable 1965 price-support rate[2] for the class, grade, and quality of the oats plus the amount shown in B below. For oats in-store at other than the point of production, the freight and handling charges from point of production to the present point of storage will also be added.

B. *Markups and examples (dollars per bushel in-store[1] basis No. 2 XHWO).*

Markup in-store received by—	Examples—Agricultural Act of 1949; Stat. minimum
Truck	
$0.08¾	Redwood County, Minn. ($0.56 and $0.03 quality differential); 105 percent and $0.08¾; $0.70¾. Minneapolis, Minn. (ex-Redwood County by rail). County minimum plus freight and handling charges ($0.70¾ and $0.00¾ and $0.05¼ and $0.01¾); $0.78¼.

C. *Nonstorable.* At not less than the market price as determined by CCC.

D. *Availability information.* Sales at bin sites are made through the ASCS county offices; at other locations through the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices.

Export.

Sales are made at the applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the adjustment referred to in B of the unrestricted use section for oats. Sales will be made pursuant to the following announcements except that oats will not be sold for applications to Title I, or Title IV, P.L. 480 purchase authorizations or for barter.

A. Announcement GR–368 (Revision II, March 1, 1965), feed grain export payment-in-kind program.

B. Announcement GR–212 (Revision 2, January 9, 1961), for application to approved CCC credit and other designated sales.

C. *Available.* Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

RYE, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 105 percent[2] of the applicable 1965 price-support rate for the class, grade, and quality of the grain plus the respective amount shown below applicable to the type of carrier involved. If delivery is outside the area of production applicable freight and handling charges will be added to the above.

B. *Markups and examples (dollars per bushel in-store[1] No. 2 or better).*

Markup in-store received by—		Examples—Agricultural Act of 1949; Stat. minimum
Truck	Rail or barge	
$0.11	$0.07¼	Rollete County, N. Dak. ($0.91); 105 percent $0.11; $1.07. Minneapolis, Minn. (ex-rail) ($1.24); 105 percent and $0.07¼; $1.38¼.

C. *Nonstorable.* At not less than market price as determined by CCC.

D. *Availability information.* Sales at bin sites are made through ASCS county offices; at other locations through the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices.

Export.

Sales are made at the applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the adjustment referred to in B of the unrestricted use section for rye. Sales will be made pursuant to the following announcements except that rye will not be sold for applications to Title I, or Title IV, P.L. 480 purchase authorizations or for barter.

A. Announcement GR–368 (Revision II, March 1, 1965), feed grain export payment-in-kind program.

B. Announcement GR–212 (Revision 2, January 9, 1961), for application to approved CCC credit and other designated sales.

C. *Available.* Evanston, Kansas City and Portland ASCS offices; also Minneapolis ASCS grain office for rye stored in terminals in Minneapolis.

RICE, ROUGH

Unrestricted use.

Market price but not less than 1965 loan rate plus 5 percent plus 22 cents per hundredweight, basis in store.

Export.

As milled or brown under Announcement GR–369, Revision III, rice export program—payment-in-kind, and under GR–379, Revision I, for approved credit sales.

Prices, quantities, and varieties of rough rice available from Kansas City ASCS Commodity Office.

COTTON, UPLAND

Unrestricted use.

A. Competitive bid under the terms and conditions of Announcement NO–C–16, as amended (Sale of Upland Cotton for Unrestricted Use). Under this announcement, upland cotton acquired under price-support programs will be sold at the highest price offered but in no event at less than the higher of (a) 105 percent of the current loan rate for such cotton, plus reasonable carrying charges, or (b) the market price for such cotton, as determined by CCC.

B. Competitive offers under the terms and conditions of Announcement NO–C–26 (Disposition of Upland Cotton—for exchange of PIK certificates or rights in the certificate pool for upland cotton), as amended. Upland cotton may be acquired at its domestic market price which shall be the highest price offered but not less than the minimum price determined by CCC.

Export.

A. *CCC cash sales for export.* Competitive bid under the terms and conditions of Announcements CN–EX–25 (Cotton Export Program—Sales—1964–66 Marketing Years) and NO–C–29 (Sale of Upland Cotton—Cotton Export Program—1964–66 Marketing Years), as amended.

B. *CCC credit sales and barter.* Competitive bid under the terms and conditions of Announcement CN–EX–23 (Purchase of Upland Cotton for Export under the Export Credit Sales Program), Announcement CN–EX–24 (Acquisition of Upland Cotton for Export under the Barter Program), and Announcement NO–C–28 (Sale of Upland Cotton CCC Credit and Barter Programs—1964–66 Marketing Years), as amended.

COTTON, EXTRA LONG STAPLE

Unrestricted use.

A. Competitive bid under the terms and conditions of Announcements NO–C–6 (revised July 22, 1960), as amended, and NO–C–10, as amended. Under these announcements extra long staple cotton (domestically-grown) will be sold at the highest price offered but in no event at less than the higher of (a) 115 percent of the current support price for such cotton plus reasonable carrying charges, or (b) the domestic market price as determined by CCC.

Export.

A. *CCC cash sales for export.* Competitive bid under the terms and conditions of Announcements CN–EX–20 (Foreign-grown Extra Long Staple Cotton Export Program) and NO–C–23 (Sale of Foreign-grown Extra Long Staple Cotton).

Competitive bid under the terms and conditions of Announcements CN–EX–22 (Extra Long Staple Cotton Export Program) and NO–C–27 (Sale of Extra Long Staple Cotton), as amended.

B. *CCC credit sales and barter.* Competitive bid under the terms and conditions of Announcement CN–EX–26 (Purchase of Extra Long Staple Cotton for Export under the Export Credit Sales Program), Announcement CN–EX–27 (Acquisition of Extra Long Staple Cotton for Export under the Barter Program), and Announcement NO–C–27 (Sale of Extra Long Staple Cotton), as amended.

Availability information. Sale of cotton will be made by the New Orleans ASCS Commodity Office and catalogs for upland cotton and extra long staple cotton showing quantities, qualities, and location may be obtained for a nominal fee from that office.

PEANUTS, FARMERS' STOCK OR SHELLED

A. *Domestic crushing or export.*

1. Farmers' stock peanuts may be purchased for crushing into oil or for export of such of those peanuts grading U.S. No. 1 or better shelled, and domestic crushing of the balance.

2. Shelled U.S. No. 1 and better grades may be purchased for export.

3. Shelled peanuts of less than U.S. No. 1 grades may be purchased for foreign or domestic crushing.

4. Terms and conditions of sales appear in CCC Peanut Announcement 1 (revised) January 4, 1962, Amendments 1 through 4, Supplement 1 and in the lot list and Appendix 1 thereto.

B. *Availability information.* When stocks of any of the above categories are available in their area of responsibility, weekly lot lists are issued by the following:

GPA Peanut Association, Camilla, Ga.
Peanut Growers Cooperative Marketing Association, Franklin, Va.
Southwestern Peanut Growers' Association, Gorman, Tex.

All sales are made on the basis of competitive bids each Wednesday, by the Producer Associations Division, Agricultural Stabilization Conservation Service, Washington, D.C., to which all bids are submitted.

FLAXSEED, BULK

Unrestricted use.

A. *Storable.* Market price but not less than the applicable 1965 support price for the class, grade, and quality of flaxseed plus 14½ cents per bushel, and plus the respective amount shown below applicable to the type of carrier involved. If delivery is outside the area of production applicable freight and handling will be added to the above.

B. *Markups and examples (dollars per bushel in-store 1/).*

Markup per bushel received by—		Examples of minimum prices (ex-rail or barge)		
Truck	Rail or barge	Terminal	Class and grade	Price
Cents 12½	*Cents* 8	Minneapolis	No. 1	$3.37½

C. *Nonstorable.* At not less than market price as determined by CCC.

D. *Available.* Through the Minneapolis Grain Merchandising ASCS office.

Export.

Under Announcement PS–GR–4 dispositions of flaxseed, as designated by CCC, will be in redemption of export PIK certificates at the domestic market price as determined by CCC.

Available. Through the Minneapolis Grain Merchandising ASCS office.

LINSEED OIL, RAW (BULK)

Export.

Under Announcement PS–GR–4 dispositions of raw linseed oil, as designated by CCC, will be in redemption of export PIK certificates at the domestic market price as determined by CCC.

Available. Through the Minneapolis ASCS Commodity Office.

DAIRY PRODUCTS

Sales are in carlots only in-store at storage location of products.

Submission of offers.

Submit offers to the Minneapolis ASCS Commodity Office.

NONFAT DRY MILK

Unrestricted use.

Announced prices, under MP–14: Spray process, U.S. Extra Grade, 16.40 cents per pound.

Export.

A. Payment-in-kind under SM–7 (Revision 1).

B. Competitive bid, under MP–10, pursuant to invitation to bid to be issued by Minneapolis ASCS Commodity Office. Sales under this announcement may be made for application to barter and approved CCC credit.

Any nonfat dry milk offered but not sold under the invitation to bid issued pursuant to MP–10 will be offered for sale through the following Monday noon at prices announced by press release from the Minneapolis ASCS Commodity Office each Wednesday.

BUTTER

Unrestricted use.

Announced prices, under MP–14: 63.0 cents per pound—New York, Pennsylvania, New Jersey, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico. 62.25 cents per pound—Washington, Oregon, and California. All other States 62.0 cents per pound.

Export.

A. Payment-in-kind under SM–7 (Revision 1).

B. Competitive bid under Announcement MP–10, pursuant to invitations to bid to be issued by Minneapolis ASCS Commodity Office. Sales under this announcement may be made for application to barter and CCC credit.

Any butter offered but not sold under the invitation to bid issued pursuant to MP–10 will be offered for sale through the following Monday noon at prices announced by press release from the Minneapolis ASCS Commodity Office each Wednesday.

CHEDDAR CHEESE (STANDARD MOISTURE BASIS)

Unrestricted use.

Announced prices, under MP–14: 41.25 cents per pound—New York, Pennsylvania, New England, New Jersey, and other States bordering the Atlantic Ocean and Pacific Ocean and the Gulf of Mexico. All other States 40.25 cents per pound.

Export.

Competitive bid under Announcement MP–10, pursuant to invitation to bid to be issued by Minneapolis ASCS Commodity Office. Announced prices under MP–10. Sales under this announcement may be made for application to CCC credit.

Any cheese offered but not sold under the invitation to bid issued pursuant to MP–10 will be offered for sale through the following Monday noon at prices announced by press release from the Minneapolis ASCS Commodity Office each Wednesday.

FOOTNOTES

[1] The formula price delivery basis for bin site sales will be f.o.b.

[2] To compute, multiply applicable support price by 1.05 round product up to nearest whole cent and add amount shown in the appropriate table and any applicable freight and handling charges.

USDA AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE OFFICES

GRAIN OFFICES

Evanston ASCS Commodity Office, 2201 Howard Street, Evanston, Ill., 60202. Telephone: Long distance—University 9–0600 (Evanston Exchange). Local—Rogers Park 1–5000 (Chicago, Ill.).

Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, and West Virginia.

Branch Office—Minneapolis ASCS Branch Office, 310 Grain Exchange Building, Minneapolis, Minn., 55415. Telephone: 334–2051.

Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

Kansas City ASCS Commodity Office, 8930 Ward Parkway (P.O. Box 205), Kansas City, Mo., 64141. Telephone: Emerson 1–0860.

Alabama, Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Texas, and Wyoming.

Branch Office—Portland ASCS Branch Office, 1218 Southwest Washington Street, Portland, Oreg., 97205. Telephone: 226–3361.

Alaska, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington (Domestic & Export Sales), Arizona and California (Export sales only).

Branch Office—Berkeley ASCS Branch Office, 2020 Milvia Street, Berkeley, Calif., 94704. Telephone: Thornwall 1–5121.

Arizona and California (Domestic sales only).

PROCESSED COMMODITIES OFFICE—(ALL STATES)

Minneapolis ASCS Commodity Office, 6400 France Avenue South, Minneapolis, Minn., 55410. Telephone: 334–3200.

COTTON OFFICES—(ALL STATES)

New Orleans ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La., 70112. Telephone: 527–7766.

GENERAL SALES MANAGER OFFICES

Representative of General Sales Manager, New York Area: Joseph Reidinger, 80 Lafayette Street, New York, N.Y., 10013. Telephone: 264–8439, 8440, 8441.

Representative of General Sales Manager, West Coast Area: Callan B. Duffy, Appraisers' Building, Room 802, 630 Sansome Street, San Francisco, Calif., 94111. Telephone: 556–6185.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 407, 63 Stat. 1066; sec. 105, 63 Stat. 1051, as amended by 76 Stat. 612; secs. 303, 306, and 307, 76 Stat. 614–617; 7 U.S.C. 1427; and 1441 (note))

Signed at Washington, D.C., on November 4, 1965.

E. A. JAENKE,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 65–12050; Filed, Nov. 8, 1965; 8:51 a.m.]

DEPARTMENT OF COMMERCE

National Bureau of Standards

NBS RADIO STATIONS

Standard Frequency and Time Broadcasts; Notice of Changes

The carrier frequencies of broadcasts by National Bureau of Standards radio stations WWV in Greenbelt, Md., WWVH in Maui, Hawaii, and WWVL in Fort Collins, Colo., will be offset during 1966 by 300 parts in 10^{10} from their nominal values. These nominal values are taken with respect to the U.S. Frequency Standard (USFS). The adjustments in carrier frequencies will be made at 0000 UT on 1 January 1966.

The new offset value was announced on 21 September 1965 by the Bureau International de l'Heure (B.I.H.), after an evaluation of predictions of the trend in the UT2 scale. The fractional offset is twice the value -150×10^{-10} used in 1964 and 1965. In accordance with the announcement, changes will be made in the carrier frequencies of all broadcasts which follow the coordinated universal time (UTC) system.

The standard carrier frequency of broadcasts by radio station WWVB in Fort Collins, Colo., will not be changed. It is not offset from its nominal value of 60kHz, taken with respect to the USFS.

As a result of the new offset, the intervals between timing pulses for the UTC system will differ in length from a second by a greater amount than in 1964 and 1965. The intervals will be longer than a second by 300 parts in 10^{10}. By contrast, the time intervals between pulses broadcast from WWVB will continue to be one second in length as referred to the standard atomic time scale, NBS–A, based on the USFS and in accordance with the definition of the unit of time agreed upon internationally.

A. V. ASTIN,
Director.

[F.R. Doc. 65–11986; Filed, Nov. 8, 1965; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15861, 15862; FCC 65R–396]

CHARLOTTESVILLE BROADCASTING CORP. (WINA) AND WBXM BROADCASTING CO., INC.

Memorandum Opinion and Order Amending Issues

In re applications of Charlottesville Broadcasting Corp. (WINA), Charlottesville, Va., Docket No. 15861, File No. BP–

15768; WBXM Broadcasting Co., Inc., Springfield, Va., Docket No. 15862, File No. BP-15808; for construction permits.

1. The above-captioned mutually exclusive applications were designated for hearing by Memorandum Opinion and Order, FCC 65-147, released February 25, 1965. By Order, FCC 65M-437, released April 9, 1965, O.K. Broadcasting Corp., licensee of station WEEL, Fairfax, Va. (WEEL) was permitted to intervene in this proceeding. Thereafter, on April 13, 1965, WEEL filed the motion here under consideration requesting that the issues be enlarged to determine: (a) Whether the application of WBXM Broadcasting Co., Inc. (WBXM) proposes to serve a "community" within the meaning of § 73.30(a) of the rules; (b) whether WBXM will provide the required signal coverage to any community it proposes to serve (§ 73.188(b) (1) and (2) of the rules); (c) whether WBXM's program proposals were formulated after a genuine ascertainment of program needs ("Suburban" issue); and (d) whether the proposed service area has any programing needs not already met by existing broadcast stations.[1]

2. At the outset the Board is confronted with the question of whether WEEL's motion was timely filed. The designation order in this proceeding was published in the FEDERAL REGISTER on March 3, 1965. (30 F.R. 2728). On April 2, 1965, the 30th day following publication, WEEL filed its petition to intervene which was granted April 8, 1965. (Order FCC 65M-437, released April 9, 1965). Within 5 days after being made a party to the proceeding, WEEL filed its subject motion alleging therein that it complied with the "good cause" requirement of § 1.229(b) of the rules. Specifically WEEL maintains it did not file its motion to intervene earlier because of the time necessary to review the designation order and to determine whether, in light of its financial position resulting from fire losses sustained in late 1964, it should intervene. WBXM argues that good cause for the delayed filing has not been demonstrated; that WEEL was on repeated notice of the pendency and status of WBXM's application; and that, having been untimely filed, the subject motion should be denied. The Broadcast Bureau is of the opinion that WEEL has demonstrated the requisite "good cause".

3. It is well established that the fact that an intervenor did not enter a proceeding until after the time for filing a motion to enlarge issues has elapsed goes only to the question of good cause for late filing; it does not toll the running of the 15 days specified by § 1.229 of the rules. Kenosha Broadcasting, Inc., FCC 61-1103, 22 R.R. 97. Under the factual circumstances of this case the Board is satisfied that the considerations prompting WEEL's delay in filing were meritorious. WEEL filed its subject motion promptly after it was made a party to the proceeding.[2] Having concluded that WEEL's motion was properly filed, we now direct our attention to the merits of the matter.

THE COMMUNITY ISSUE

4. In support of its request for addition of an issue to determine whether Springfield, Va., is a "community" (§ 73.30(a)) WEEL contends that Springfield is simply a name given to "an amorphous collection of very recent housing developments and shopping centers"; that it has no local government, receives all normal municipal services from Fairfax County and is not circumscribed by natural or man-made boundaries; that on three prior occasions Fairfax County has petitioned the State of Virginia for a city charter which if granted would eliminate the possibility of Springfield ever becomnig a distinctive community; and that overall it lacks the usual indicia of a community. To further support its position WEEL has submitted a letter from Stanford E. Parris, elected representative on the Fairfax County Board of Supervisors from the Mason Magisterial District, which includes a "significant portion" of Springfield. Mr. Parris offered his opinion that the Springfield area does not have interests distinctive and distinguishable from those of any other urbanized area of Fairfax County.

5. The 1960 U.S. Census lists Springfield as an unincorporated urban place situated in the Mason District of Fairfax County, with depicted boundaries, whose area is given a 3.8 square miles and whose 1960 population is stated as 10,783 persons. In several past instances the Commission and the Board have held smaller, unincorporated places to be "communities" within the meaning of § 73.30(a) despite the fact that such places relied upon larger political subdivisions for routine governmental services. Seven Locks Broadcasting, Inc., FCC 64-595, 3 R.R. 2d 177; Musical Heights, Inc., 29 FCC 1, 19 R.R. 49 (1960); Rockland Broadcasting Co., 36 FCC 303, 2 R.R. 2d 39. The undisputed census information coupled with existing Commission precedent convinces us that addition of the requested issue would be unwarranted.[3] Mr. Parris' rather vague and indeterminate opinion fails to alter our conclusion.

COMPLIANCE WITH § 73.188(b) (1) AND (2) OF THE RULES

6. Referring to WBXM's engineering statement (engineering exhibit fig. 6), which indicates that the Springfield area has "expanded somewhat in the past 2 years", WEEL argues that because of the indefinite boundaries and the claim of the expanded area it is impossible to determine whether WBXM's proposal complies with § 73.188(b) (1) and (2) of the rules. WBXM's engineering statement demonstrates that its proposed 25 mv/m and 5 mv/m contours cover all of Springfield and portions of the areas contiguous thereto. Under these circumstances it is incumbent upon petitioner to allege facts demonstrating the need for addition of a required coverage issue. No such showing has been made and accordingly the issue will not be added (§ 1.229 of the rules).

THE "SUBURBAN" ISSUE

7. In support of its request for addition of a "Suburban" issue, WEEL alleges that after acceptance of its application for filing WBXM amended its application by substantially reducing its proposed "live" programing; and that this reduction was not supported by evidence of a continuing or additional survey of the program needs of the proposed service area (citing Springfield Telecasting Co., FCC 64R-471, 3 R.R. 2d 727). The primary thrust of WBXM's opposition revolves about the similarity between WBXM's programing proposal and WEEL's present programing. According to WBXM, this similarity tends to show that WBXM and WEEL made comparable determinations as to needs of their service areas, Springfield and Fairfax, Va., respectively. WBXM has also submitted the affidavit of its president, Joseph J. Kessler, who states that he resides in Falls Church, Va.; that his home is in close proximity to Springfield; that he has often driven to Springfield; and that through his participation in many civic organizations and reading of local publications he has kept advised of Springfield's needs. Mr. Kessler also states that in preparing WBXM's program proposal he has taken into account the results of surveys and interviews and has solicited suggestions through personal interviews and news interviews published in the Springfield Independent.

8. WBXM's opposition and the Kessler affidavit fail to meet or even address themselves to the question of whether the amendment to WBXM's programing proposal resulted from a change in the community needs and what steps, if any, were taken to detect this change. The reduction of "live" programing from 16.4 to 8.9 percent alone constitutes a substantial modification requiring a satisfactory explanation. WBXM's failure to supply such explanation compels us to add the requested "Suburban" issue. Springfield Telecasting Co., supra. A comparison between WBXM's and WEEL's programing, involving two different communities is irrelevant to our inquiry concerning only WBXM's proposal.

[1] Also before the Review Board are the following related pleadings: (a) Opposition, filed Apr. 26, 1965, by WBXM; (b) statement of Broadcast Bureau in partial opposition to motion to enlarge issues, filed Apr. 28, 1965; and (c) reply, filed May 10, 1965, by WEEL. Action by the Board on this pleading was held in abeyance because of the pending negotiations of the parties looking to the effectuation of an agreement which could eliminate the necessity for a hearing.

[2] Our determination herein should be contrasted to our denial of WGAY, Inc.'s late filed motion to enlarge. (FCC 65R-214, released June 8, 1965). WGAY was permitted to intervene in this proceeding pursuant to the same order granting WEEL's petition to intervene. However, not only did WGAY wait 2 weeks before filing its motion to enlarge, but it offered no explanation for its delay in either instance.

[3] We recognize the Bureau's concern that an applicant might claim as its "community" an area greater than that shown in a census study. Should that occur in this case, a renewed petition to enlarge issues might then be appropriate.

PROGRAM NEEDS

9. The last issue WEEL seeks to have added (on a contingent basis) is to determine the extent to which the programing of existing stations in the Washington, D.C. area meets the local needs of WBXM's proposed service area. In support of its request for such an issue, WEEL argues that it now provides service to the Springfield area [4] and that the Springfield area receives 2.0 mv/m or better service from at least seven stations, including WAVA, Arlington, Va., WFAX, Falls Church, Va., and WPIK, Alexandria, Va. WEEL enumerates in depth its existing programing designed to cover all of Springfield's needs, including, inter alia, service to Springfield civic organizations; broadcast of Lee High School athletic events (Lee High School draws students from the Springfield area); service to Springfield advertisers; and discussion programs many of whose participants are identified with the Springfield area.

10. Emphasizing the need for first local transmission service to Springfield, WBXM argues that WEEL has made no showing of Springfield's programing needs and the extent to which they are being met. Under such circumstances, it is claimed, WEEL's attempted program showing should not be allowed to offset the strong presumption of need for first local transmission. WBXM cites Greenwich Broadcasting Corp., FCC 62-727, 23 R.R. 962; Cookeville Broadcasting Co., FCC 60-101, 19 R.R. 897 and Service Broadcasting Corp. FCC 63R-234, 25 R.R. 445.

11. Where proposals for standard broadcast stations in different communities are mutually exclusive, evidence of the programing of existing stations serving such communities may in appropriate circumstances be material to a determination, under section 307(b) of the Communications Act, of which community has the greater need for the facility. Cookeville Broadcasting Co., supra. WEEL has made a sufficient threshold showing to raise the question of whether the programing needs of Springfield are now being satisfied by existing stations. Boardman Broadcasting Co., Inc., FCC 64R-21, 1 R.R. 2d 931. However, because of the uncertain status of a proposed joint engineering amendment and the possibility that ultimately the community of Charlottesville may prevail on the section 307(b) issue, the programing needs issue will be added on the following contingent basis only: (a) That the 307(b) issue remains applicable to this proceeding; and (b) that on the basis of the standard section 307(b) evidence (i.e., all evidence relevant to a 307(b) determination except for evidence concerning the programing of existing stations) Springfield would prevail. In other words, this issue need not be considered if Charlottesville would in any event be preferred on 307(b). See Boardman Broadcasting Co., Inc., supra.

Accordingly, it is ordered, This 3d day of November 1965, that the motion to enlarge issues, filed on April 13, 1965, by O.K. Broadcasting Corp. (WEEL) is granted to the extent indicated herein and is denied as to the remainder; and that the issues in this proceeding are enlarged by addition of the following:

(a) To determine the efforts, if any, made by WBXM Broadcasting Co., Inc. or its predecessor in interest [Joseph J. Kessler tr/as WBXM Broadcasting Co.] to ascertain the needs and interests of the area proposed to be served and the manner in which the applicant will meet such needs and interests;

(b) In the event WBXM Broadcasting Co., Inc., should be preferred under the existing section 307(b) issue in this proceeding, to determine the extent to which programing of existing stations meets the local needs and interests of Springfield, Va., and to determine in the light of such evidence which of the applicants should be preferred.

Released: November 3, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12036; Filed, Nov. 8, 1965; 8:50 a.m.]

[Docket Nos. 15668, 15708; FCC 65M-1455]

CHICAGOLAND TV CO. AND CHICAGO FEDERATION OF LABOR AND INDUSTRIAL UNION COUNCIL

Order Continuing Hearing

In re applications of Frederick B. Livingston and Thomas L. Davis, doing business as Chicagoland TV Co., Chicago, Ill., Docket No. 15668, File No. BPCT-3116; Chicago Federation of Labor and Industrial Union Council, Chicago, Ill., Docket No. 15708, File No. BPCT-3439; for construction permits for new television broadcast station (Channel 50).

On the Hearing Examiner's own motion: *It is ordered*, This 4th day of November 1965, that the hearing session now scheduled to commence on December 15, 1965, is continued to December 22, 1965, at 10 a.m., in the offices of the Commission at Washington, D.C.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12037; Filed, Nov. 8, 1965; 8:50 a.m.]

[Docket Nos. 15752 etc.; FCC 65M-1440]

CHARLES W. JOBBINS ET AL.

Order Continuing Hearing

In re applications of Charles W. Jobbins, Costa Mesa—Newport Beach, Calif., Docket No. 15752, File No. BP-16157; Goodson-Todman Broadcasting, Inc., Pasadena, Calif., Docket No. 15754, File No. BP-16159; Orange Radio, Inc., Fullerton, Calif., Docket No. 15755, File No. BP-16160; Pacific Fine Music, Inc., Whittier, Calif., Docket No. 15756, File No. BP-16161; The Bible Institute of Los Angeles, Inc., Pasadena, Calif., Docket No. 15757, File No. BP-16162; C. D. Funk and George A. Baron, a partnership, doing business as Topanga Malibu Broadcasting Co., Topanga, Calif., Docket No. 15758, File No. BP-16164; California Regional Broadcasting Corp., Pasadena, Calif., Docket No. 15759, File No. BP-16165; Storer Broadcasting Co. (KGBS), Pasadena, Calif., Docket No. 15760, File No. BP-16166; Robert S. Morton, Arthur Hanisch, Macdonald Carey, Ben F. Smith, Donald C. McBain, Robert Breckner, Louis R. Vincenti, Robert C. Mardian, James B. Boyle, Robert M. Vaillancourt, and Edwin Earl, doing business as Brown City Broadcasting Co., Pasadena, Calif., Docket No. 15762, File No. BP-16168; Pasadena Community Station, Inc., Pasadena, Calif., Docket No. 15763, File No. BP-16170; Voice in Pasadena, Inc., Pasadena, Calif., Docket No. 15764, File No. BP-16172; Western Broadcasting Corp., Pasadena, Calif., Docket No. 15765, File No. BP-16173; Pasadena Broadcasting Co., Pasadena, Calif., Docket No. 15766, File No. BP-16174, for construction permits.

The Hearing Examiner having under consideration the matters affecting the future procedural course of the above-entitled proceeding;

It appearing, that as a consequence of informal conferences held among all parties hereto substantial progress has been made in the areas of reducing the volume of the evidentiary exhibits previously exchanged herein with reference to the "307(b) issue" and as a consequence thereof additional time for the resumption of hearing is requested to afford opportunity to prepare revised materials and to arrive at stipulations relative to the presentation of such materials in evidence;

It further appearing, that if successfully concluded, the above proposals should result in substantially shortening the evidentiary phases of the proceeding and that all parties have consented to immediate consideration and grant of the request for continuance;

It is ordered, This 3d day of November 1965, that the said oral request for continuance is granted, the presently scheduled hearings of November 4, 1965, and November 8, 1965, are cancelled and hearing herein shall resume November 15, 1965, commencing at 10 a.m., in the offices of the Commission at Washington, D.C.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12038; Filed, Nov. 8, 1965; 8:50 a.m.]

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[4] The Board's review of the exhibit cited by WEEL in support of this assertion (WEEL exhibit No. 2, page 6, submitted in Docket No. 15079), indicates some uncertainty as to the extent to which WEEL provides the required signal to all of the area alleged.

[5] Board Members Berkemeyer and Nelson not participating.

[Docket No. 16250; FCC 65M-1456]

SERVICE ELECTRIC CABLE TV, INC.

Order Scheduling Prehearing Conference

In the matter of: cease and desist order to be directed to Service Electric Cable TV, Inc., 206-208 East Third Street, Bethlehem, Pa., Docket No. 16250.

On the Hearing Examiner's own motion: *It is ordered*, This 4th day of November 1965, that a prehearing conference in the above-entitled proceeding will be convened at 10 a.m., Friday, November 12, 1965, at the Commission's offices, Washington, D.C.; and

It is ordered further, That the parties will be prepared to discuss areas of possible stipulation, both of procedure and of fact, during the prehearing conference, and to indicate the numbers of witnesses whose testimony they intend to present and their estimates of the length of the hearing.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12039; Filed, Nov. 8, 1965; 8:50 a.m.]

[Docket No. 15871 etc.; FCC 65-989]

SOUTHINGTON BROADCASTERS ET AL.

Memorandum Opinion and Order Amending Issues

In re application of Fitzgerald C. Smith, trading as Southington Broadcasters, Southington, Conn., Docket No. 15871, File No. BP-16405; for construction permit. In re applications of Joe Zimmermann, Arthur K. Greiner, Glenn W. Winter, William W. Rakow, Robert M. Lesher, doing business as Lebanon Valley Radio, Lebanon, Pa., Docket No. 15835, File No. BP-16098; John E. Hewitt, Thomas A. Ehrgood, Clifford A. Minnich, and Fitzgerald Smith, doing business as Cedar Broadcasters, Lebanon, Pa., Docket No. 15836, File No. BP-16103; Catonsville Broadcasting Co., Catonsville, Md., Docket No. 15838, File No. BP-16105; Radio Catonsville, Inc., Catonsville, Md., Docket No. 15839, File No. BP-16106; Commercial Radio Institute, Inc., Catonsville, Md., Docket No. 15840, File No. BP-16107; for construction permits. In re applications of Eastern Long Island Broadcasters, Inc., Sag Harbor, N.Y., Docket No. 16033, File No. BPH-4321; Reunion Broadcasting Corp., East Hampton, N.Y., Docket No. 16034, File No. BPH-4460; for construction permits.

1. The Commission has under consideration: (a) Memorandum Opinion and Order (FCC 65R-290; 30 F.R. 9889), released August 4, 1965, enlarging issues in Docket No. 15871, supra; (b) Order (FCC 65R-340; 30 F.R. 11980), released September 15, 1965, enlarging issues in Docket Nos. 15835, 15836, 15838-15840, supra; (c) Order (FCC 65R-369; 30 F.R. 13024), released October 6, 1965, enlarging issues in Docket Nos. 16033 and 16034, supra; (d) Petition for Limited Consolidation of Hearings, filed August 23, 1965, by Lebanon Valley Radio in Docket Nos. 15835, 15836, 15838-15840; and (e) Motion to Consolidate Hearings for Limited Purpose, filed August 31, 1965, by Reunion Broadcasting Corp. in Docket Nos. 16033-16034.

2. The above-listed pleadings had their origin in testimony given on May 25, 1965, in Docket No. 15871 before Hearing Examiner Thomas H. Donahue by Fitzgerald C. Smith, sole proprietor, trading as Southington Broadcasters, applicant for a construction permit for a new standard broadcast station in Southington, Connecticut. As a result of appropriate pleadings, the issues in that case were subsequently enlarged (par. 1(a), supra) as follows:

(a) To determine whether the application (BP-16405) contains misrepresentations of fact or fails to reveal information called for in the application.

(b) To determine whether applicant's testimony given on May 25, 1965, before Examiner Thomas Donahue included misrepresentations of fact or was lacking in candor.

(c) To determine whether there are real parties in interest to the application other than Fitzgerald C. Smith and, if so, the identity of each and the relationship of each to the financing, ownership and operation of the proposed station.

(d) To determine whether, in light of the findings on the above issues, the applicant possesses the character qualifications required of a Commission licensee.

Since Fitzgerald C. Smith has substantial interests in Cedar Broadcasters and Eastern Long Island Broadcasters, Inc. (applicants for construction permits in Docket Nos. 15836 and 16033, respectively), issues in those proceedings were subsequently enlarged upon appropriate pleadings to add (in Docket Nos. 15835, 15836, 15838-15840) an issue (par. 1(b), supra) to wit:

To determine, should it be determined in the proceeding for a new standard broadcast station in Southington, Conn. (Fitzgerald C. Smith, trading as Southington Broadcasters, Docket No. 15871), that Fitzgerald C. Smith does not possess the requisite character qualifications to be a licensee of the Commission, whether Cedar Broadcasters possesses the requisite qualifications to be a licensee of the Commission.

and (in Docket Nos. 16033 and 16034) an issue (par. 1(c), supra) in substantially identical terms as to Eastern Long Island Broadcasters, Inc.

3. The Commission has now before it for action two similar petitions (pars. 1(d) and 1(e), supra) to consolidate the three hearings for the limited purpose of taking testimony on the common issue of the character of Fitzgerald C. Smith. The petition of Lebanon Valley Radio (par. 1(d), supra) also points out that the issue in Lebanon, as currently worded, "would not give the applicants in * * * Lebanon-Catonsville * * * the right to participate in the taking of evidence on the character qualifications of Mr. Smith." We agree and shall, on our own motion, reword the issues to permit all counsel equal participation.

Accordingly, it is ordered, This 3d day of November 1965 that the petition of Lebanon Valley Radio and the motion of Reunion Broadcasting Corp. are granted; and

It is further ordered, That the issues added to the respective proceedings by Memorandum Opinion and Order, FCC 65R-290 and Orders, FCC 65R-340 and FCC 65R-369 are deleted; and

It is further ordered, That the following issues are added in Southington Broadcasters (Docket No. 15871), Lebanon Valley Radio (Docket Nos. 15835, 15836, 15838-15840) and Eastern Long Island Broadcasters, Inc. (Docket Nos. 16033 and 16034), to wit:

(a) To determine whether the application in Southington Broadcasters, Southington, Conn., Docket No. 15871 (BP-16405) contains misrepresentations of fact or fails to reveal information called for in the application.

(b) To determine whether applicant's testimony given in Southington Broadcasters, Southington, Conn., Docket No. 15871 (BP-16405) on May 25, 1965, before Examiner Thomas Donahue included misrepresentations of fact or was lacking in candor.

(c) To determine whether there are real parties in interest to the application in Southington Broadcasters, Southington, Conn., Docket No. 15871, other than Fitzgerald C. Smith and, if so, the identity of each and the relationship of each to the financing, ownership and operation of the proposed station.

(d) To determine whether, in the light of the findings on the above issues, the applicant herein with which Fitzgerald C. Smith is associated possesses the character qualifications required of a Commission licensee; and

It is further ordered, That the proceedings in Lebanon, Pa. (Docket Nos. 15835 et al.) and Sag Harbor, N.Y. (Docket Nos. 16033 et al.) are consolidated with the Southington, Conn., proceeding (Docket No. 15871) for the limited purpose of taking evidence on the issues relating to the character qualifications of Fitzgerald C. Smith; and

It is further ordered, That the consolidated hearing shall take place at a time, place and date to be designated by the Chief Hearing Examiner, before Hearing Examiners Elizabeth C. Smith, presiding, Thomas H. Donahue and Sol Schildhause; and

It is further ordered, That all parties to the three proceedings above-captioned shall be permitted full participation; and

It is further ordered, That the three Hearing Examiners shall, as soon as practicable thereafter, render a single, joint Initial Decision on the issues common to all three proceedings herein, which joint Initial Decision shall thereafter be subject to all appellate procedures provided for Initial Decision; and

It is further ordered, That each Hearing Examiner shall incorporate the testimony so taken into the hearing record of the proceeding which he is conducting, and in the event that the Initial Decision above-referred to be not absolutely disqualifying to the applicant in his proceeding, he may make such comparative evaluation of such applicant as

may be appropriate in the light of such testimony.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12040; Filed, Nov. 8, 1965; 8:50 a.m.]

[Docket No. 14909; FCC 65M-1444]

SOUTHERN RADIO & TELEVISION CO.

Order Continuing Prehearing Conference

In re application of Southern Radio & Television Co., Lehigh Acres, Fla., Docket No. 14909, File No. BP-14297; for construction permit.

On the unopposed oral request of counsel for the applicant: *It is ordered*, This 3d day of November 1965, that the further prehearing conference is rescheduled from November 8, to November 15, 1965, at 10 a.m.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12041; Filed, Nov. 8, 1965; 8:50 a.m.]

[Docket No. 16125; FCC 65M-1443]

TINKER, INC.

Order Continuing Hearing

In the matter of revocation of the license of Tinker, Inc., for standard broadcast station WEKY, Richmond, Ky., Docket No. 16125.

A prehearing conference having been held on November 3, 1965, whereat certain agreements were reached and certain rulings were made;

It appearing, that certain pleadings are now pending before the Commission; that the disposition of these pleadings may affect materially the conduct of this proceeding; and that in such circumstances it is appropriate to postpone the date now set for the commencement of hearing;

Accordingly, it is ordered, This 3d day of November 1965, that the hearing now scheduled to commence on November 15, 1965, in Richmond, Ky., is continued, pending further order.

Released: November 3, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12042; Filed, Nov. 8, 1965; 8:50 a.m.]

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[1] Commissioner Hyde absent.

[Docket Nos. 16223—16229; FCC 65M-1451]

TRI-STATE TELEVISION TRANSLATORS, INC.

Order Continuing Prehearing Conference

In re applications of Tri-State Television Translators, Inc., Cumberland, Md., Docket No. 16223, File No. BPTTV-2354; Tri-State Television Translators, Inc., Cumberland, Md., Docket No. 16224, File No. BPTTV-2355; Tri-State Television Translators, Inc., Cumberland, Md., Docket No. 16225, File No. BPTTV-2356; Tri-State Television Translators, Inc., Cumberland, Md., Docket No. 16226, File No. BPTTV-2357; Tri-State Television Translators, Inc., Cumberland, Md., Docket No. 16227, File No. BPTTV-2358; Tri-State Television Translators, Inc., Cumberland, Md., Docket No. 16228, File No. BPTTV-2359; Tri-State Television Translators, Inc., Cumberland, Md., Docket No. 16229, File No. BPTTV-2360; for construction permits for new VHF television broadcast translator stations.

In order to meet the convenience of counsel for the applicant and with the consent of all parties, the further prehearing conference now scheduled for Friday, November 5, 1965, is continued to Wednesday, November 10, 1965, beginning at 10 a.m., in the offices of the Commission, Washington, D.C.

It is so ordered, This the 4th day of November 1965.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12043; Filed, Nov. 8, 1965; 8:50 a.m.]

[Docket Nos. 15826, 15827; FCC 65M-1454]

KXYZ TELEVISION, INC. AND CREST BROADCASTING CO.

Order Scheduling Hearing

In re applications of KXYZ Television, Inc., Houston, Tex., Docket No. 15826, File No. BPCT-3220; Crest Broadcasting Co., Houston, Tex., Docket No. 15827, File No. BPCT-3302; for construction permit for new television broadcast station (Channel 26).

A prehearing conference having been held on November 4, 1965, whereat certain agreements were reached and certain rulings were made;

It is ordered, This 4th day of November 1965, that hearing herein shall resume on December 10, 1965, commencing at 10 a.m., in the offices of the Commission at Washington, D.C.

Released: November 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-12044; Filed, Nov. 8, 1965; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 65-23]

PHILIPPINE FORWARDING CO., INC.

Discontinuance of Proceeding and Revocation of Operating Rights

This proceeding was instituted to determine whether applicant Philippine Forwarding Co., Inc., 150 Nassau Street, New York, N.Y., is fit, willing, and able properly to carry on the business of forwarding for others pursuant to section 44(b) of the Shipping Act, 1916, and to conform to the requirements, rules, and regulations of the Commission issued thereunder.

Applicant has now requested that it be allowed to withdraw its application for a license as an independent ocean freight forwarder.

It is ordered, That the request of Philippine Forwarding Co., Inc., to withdraw its application is hereby granted, and the proceeding is discontinued.

It is further ordered, That the right of Philippine Forwarding Co., Inc., to carry on the business of forwarding under section 44(b) of the Shipping Act, 1916, is revoked effective this date pursuant to the terms of that section: *Provided, however*, That this revocation is not intended to prevent Philippine Forwarding Co., Inc., from completing forwarding services for which it has received payment prior to this date.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 65-12052; Filed, Nov. 8, 1965; 8:51 a.m.]

YORK SHIPPING CORP. ET AL.

Independent Ocean Freight Forwarder Applications; Notice of Revision

Notice is hereby given of the change in the following applications for independent ocean freight forwarder licenses filed pursuant to section 44, Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

GRANDFATHER APPLICANT

York Shipping Corp., 225 West 34th Street, New York, N.Y.; Application No. 493, denied October 7, 1965.

NEW APPLICANT

Hampton Roads Shipping Corp., C & O Terminal Building, Room 304B, 2210 Harbor Road, Newport News, Va.; Application withdrawn August 23, 1965.

Notice is hereby given that the following applicant has filed with the Federal Maritime Commission, application for license as independent ocean freight forwarder, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Domestic Regulation, Federal Mari-

time Commission, Washington, D.C., 20573. Protests received within 60 days from the date of publication of this notice in the FEDERAL REGISTER will be considered.

Delia Pallde, 1810 Central Avenue, Tampa, Fla., 33602; Delia Pallde, owner.

ADDRESS CHANGE

International Export Packers, Inc., 631 South Pickett Street, Alexandria, Va.; applicant.

Notice is hereby given of changes in the following independent ocean freight forwarder licenses.

CHANGE OF NAME

T. Parker Host, Inc., to Hampton Roads Shipping Corp., 2210 Harbor Road, Newport News, Va.; License No. 339.
W. J. Browning Co., W. J. Browning, d.b.a., to W. J. Browning, Inc., 103 Granby Street, Norfolk, Va., 23510; License No. 243.
Juan A. Vega to Miguel A. Vega, 151 Marina Street, San Juan, P.R.; License No. 684.
Pan American Shipping Co. to Pan American Shipping Co., Inc., 527 Canal Street, New Orleans, La., 70130; License No. 245.

CHANGE OF OFFICERS

Norton & Ellis, Inc., 120 Atlantic Street, Post Office Box 3257, Norfolk, Va.; License No. 421. James H. Devereux, Jr., Chairman of the board; T. J. Gills, Jr., president-treasurer; Cary M. Early, assistant to president; D. W. Fulton, assistant vice president; R. A. Descoteaux, assistant vice president; and James H. Brock, secretary.
S. H. Pomerance Co., Inc., 50 Broadway, New York, N.Y.; License No. 876. Anna Pomerance, secretary-treasurer.
York Forwarding Corp., 50 Pearl Street, New York, N.Y.; License No. 439. Ernest Zimmerman, secretary.
Transcontinental Export Forwarding Co., Inc., 26 Broadway, New York, N.Y.; License No. 946. Raquel V. Carreras, secretary-director.

CHANGE OF ADDRESS

S. H. Pomerance Co., Inc., 50 Broadway, New York, N.Y.; License No. 876.

GRANDFATHERS LICENSED

October 1965

Valencia Baxt Express, Inc., 451 Fernandez Juncos Avenue, San Juan, P.R.; License No. 587, Issued October 25, 1965.
Norman G. Jensen, Inc., 3565 El Camino Real, Palo Alto, Calif., License No. 800, Issued October 27, 1965.
Del Mar Shipping Corp., 354 South Spring Street, Los Angeles, Calif.; License No. 640, Issued October 4, 1965.

LATE AND NONLICENSED

International Airfreight, Inc., 750 Lairport Street, El Segundo, Calif.; License No. 1095, Issued October 4, 1965.
Foreign Freight Forwarders of Milwaukee, Franklin George Reitz, d.b.a., 4349 Glenway Street, Wauwatosa, Wis., 53222; License No. 1096, Issued October 7, 1965.
Dever, Inc., 21 South Fifth Street, Philadelphia, Pa.; License No. 1097, Issued October 29, 1965.

Dated: November 4, 1965.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-12053; Filed, Nov. 8, 1965; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP66-115]

CITIES SERVICE GAS CO.

Notice of Application

NOVEMBER 1, 1965.

Take notice that on October 20, 1965, Cities Service Gas Co. (Applicant), Post Office Box 1995, Oklahoma City, Okla., 73101, filed in Docket No. CP66-115 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Commission's regulations under the Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1966 and operation of gas purchase facilities, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes the construction during 1966 and the operation of miscellaneous meter and regulator equipment and field gathering lines and compressors to enable Applicant to take into its certificated main pipeline system natural gas which it purchases in the general area of its system, as the gas becomes available to it.

The total cost of the facilities to be constructed under this proposal will not exceed $3,000,000, with no single project to cost more than $500,000.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before November 22, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11991; Filed, Nov. 8, 1965; 8:45 a.m.]

[Docket Nos. CP66-127, CP66-128]

EL PASO NATURAL GAS CO.

Notice of Applications

NOVEMBER 1, 1965.

Take notice that on October 25, 1965, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex., 79999, filed in Docket Nos. CP66-127 and CP66-128 separate "budget-type" applications pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations under the Act for certificates of public convenience and necessity authorizing the construction during the calendar year 1966 and the operation of gas-purchase facilities to be added to its Southern Division System and its Northwest Division System, respectively, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant has made separate filings for the "budget-type" certificates for the two divisions of its system in order to facilitate transfer of the facilities to be installed in the Northwest Division System, of which Applicant seeks to divest itself by its filing of July 23, 1965, in Docket No. CP66-27. Northwest Pipeline Corp. (Northwest), by its filings of the same date in Docket Nos. CP66-28, CP66-29 and CP66-30, seeks to assume control of the facilities and operations of Applicant's Northwest Division System. Applicant contemplates that when divestiture is authorized the authorization sought in Docket No. CP66-128 will be applicable to Northwest.

The purpose of the instant filings is to permit Applicant to act with reasonable dispatch in contracting for and attaching to its respective Systems new or expanded supplies of natural gas in various producing areas generally coextensive with the said Systems.

The aggregate cost for all facilities for which authorization is sought in Docket No. CP66-127 (for the Southern Division System) will not exceed $4,000,000 and the total cost for any single project will not exceed $500,000. The aggregate cost for all facilities for which authorization is sought in Docket No. CP66-128 (for the Northwest Division System) will not exceed $1,000,000, and the total cost for any single project will not exceed $500,000. The financing in each case is to be from working funds.

Applicant further states that no new or additional sales are proposed in the filings in these dockets or otherwise contemplated specifically as a result of such attachment of natural gas.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before November 29, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the

Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11992; Filed, Nov. 8, 1965; 8:45 a.m.]

[Docket Nos. CP66-110, CP66-112]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Applications

NOVEMBER 2, 1965.

Take notice that on October 15, 1965, Great Lakes Gas Transmission Co. (Applicant), 100 West Tenth Street, Wilmington, Del., filed in Docket No. CP66-112 an application pursuant to section 3 of the Natural Gas Act requesting an order of the Commission authorizing Applicant to import and export natural gas from and to Canada. On the same date Applicant filed in Docket No. CP66-110 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the interstate transportation of natural gas in the States of Minnesota, Wisconsin, and Michigan, and for the sale of natural gas for resale in the State of Michigan. Applicant filed a third application, on the same day, in Docket No. CP66-111 for a permit pursuant to Executive Order No. 10485, dated September 3, 1953, authorizing the construction, operation, maintenance and connection of facilities at three separate locations on the international boundary between the United States and Canada for the importation and exportation of natural gas from and to Canada. The proposals involved are more fully set forth in the aforementioned applications which are on file with the Commission and open to public inspection.

The above applications incorporate proposals by Applicant involving the receipt of natural gas from Trans-Canada Pipe Lines Ltd. (Trans-Canada) at the international boundary between the United States and Canada near Emerson, Manitoba, and the transportation of portions of such gas in an easterly direction across Minnesota, Wisconsin, and Michigan, to points on the international boundary near Sault Ste. Marie and St. Clair, Mich. Applicant states that at St. Clair, Mich., and Sault Ste. Marie, Mich., gas would be redelivered by Applicant to Trans-Canada, for use in meeting Trans-Canada's expanding market requirements. Such gas would be transported under a transportation agreement between Applicant and Trans-Canada.

By its applications Applicant proposes to construct a new pipeline from an interconnection with Trans-Canada at the international boundary near Emerson, Manitoba, across the States of Minnesota, Wisconsin, and Michigan, to an interconnection with Trans-Canada at a point on the international boundary near St. Clair, Mich. Applicant proposes to construct the new pipeline in two segments. The first segment, which applicant anticipates would be ready for operation commencing in the fall of 1966, would consist of approximately 157 miles of 36-inch pipeline extending from a point near the Austin Field storage area in Michigan to a point on the international boundary near St. Clair, Mich. The second segment, which Applicant anticipates would be ready for operation by the fall of 1967, would consist of approximately 832 miles of 36-inch pipeline extending from a point on the international boundary near Emerson, Manitoba, to a point near the Austin Field storage area where it would connect with the first segment. The second segment would also include a 10-inch lateral pipeline from an interconnection with the 36-inch pipeline in Mackinac County, Mich., extending to the twin cities of Sault Ste. Marie, Mich., and Sault Ste. Marie, Ontario.

Applicant proposes to render the following services by virtue of its proposed new pipeline system. Commencing in the fall of 1966, Applicant proposes to receive from Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), at the aforementioned point near the Austin Field storage area, for the account of Trans-Canada, a contract demand of 113,000 Mcf of gas per day and to transport and deliver such 113,000 Mcf per day to Trans-Canada at the international boundary near St. Clair, Mich. In 1967, Applicant proposes to transport approximately 10 million Mcf of gas for the account of Michigan Consolidated Gas Co. (Michigan Consolidated) from the Austin Field storage area to Michigan Consolidated's Belle River Mills storage field near St. Clair, Mich.

Commencing in the fall of 1967, Applicant proposes to receive 63,000 Mcf of gas per day from Michigan Wisconsin at the Austin Field storage area, for transportation and delivery to Trans-Canada at St. Clair. In addition, however, since the 36-inch pipeline would be completed from Emerson, Manitoba, to St. Clair, Mich., by the fall of 1967, Applicant proposes to transport for the account of Trans-Canada 392,000 Mcf of gas per day; 372,000 Mcf per day is to be delivered at St. Clair and 20,000 Mcf per day is to be delivered at Sault Ste. Marie. Also commencing in 1967, Applicant proposes to purchase from Trans-Canada and sell and deliver to Michigan Consolidated at delivery points along the new line, a contract demand of 20,000 Mcf per day. In 1968 and 1969, Applicant proposes to transport for Michigan Consolidated's account such volumes of gas as Michigan Consolidated may elect, but not less than 8 billion cubic feet nor more than 12 billion cubic feet annually, reduced by the amount purchased by Michigan Consolidated from Applicant at the Belle River Mills storage field.

Commencing in the fall of 1968, Applicant would not receive gas from Michigan Wisconsin for transportation to Trans-Canada, but would transport for the account of Trans-Canada 530,000 Mcf of gas per day; 507,000 Mcf per day to be delivered to Trans-Canada at St. Clair and 23,000 Mcf per day to be delivered to Trans-Canada at Sault Ste. Marie. Also commencing in the fall of 1968, Applicant proposes to purchase from Trans-Canada and sell and deliver to Michigan Consolidated, a contract demand of 40,000 Mcf of gas per day.

Commencing in the fall of 1968, Applicant's fourth year of operation of the proposed new line, Applicant proposes to transport for the account of Trans-Canada, a contract demand of 600,000 Mcf of gas per day; 574,000 Mcf per day to be delivered to Trans-Canada at St. Clair and 26,000 Mcf per day to be delivered to Trans-Canada at Sault Ste. Marie. Also commencing in the fall of 1969, and each year thereafter over the period of the contract, Applicant proposes to purchase from Trans-Canada and sell to Michigan Consolidated at delivery points along the proposed pipeline, a contract demand of 57,000 Mcf of gas per day.

Commencing in the fall of 1970, the fifth year of Applicant's proposed operations, Applicant proposes to transport for the account of Trans-Canada a contract demand of 677,000 Mcf of gas per day, 648,000 Mcf per day to be delivered at St. Clair and 29,000 Mcf per day to be delivered at Saint Ste. Marie.

Specifically, Applicant seeks authorization to construct and operate approximately 989 miles of 36-inch gas transmission pipeline, approximately 44 miles of 10-inch pipeline and a total of 134,700 horsepower in compressor facilities at 12 stations.

The estimated cost of Applicant's proposed construction is $211,669,000. The project would be financed through the sale of an equal number of shares of common stock to Trans-Canada and American Natural Gas Company in the total amount of $34,000,000; the issuance of first mortgage bonds in the amount of $145,000,000; promissory notes in the amount of $24,000,000; and funds generated by Applicant internally.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before November 22, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 3,

7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the proposed importation and exportation will not be inconsistent with the public interest and that a grant of the requested authorization and the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11993; Filed, Nov. 8, 1965; 8:45 a.m.]

[Docket No. CP66-124]

LONE STAR GAS CO.

Notice of Application

NOVEMBER 1, 1965.

Take notice that on October 22, 1965, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, Tex., 75201, filed in Docket No. CP66-124 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1966 and the operation of various lateral pipelines and related facilities for the transportation of natural gas in interstate commerce, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the facilities to be constructed will be gas purchase facilities for the purpose of connecting new supplies of gas into its existing certificated pipeline system.

The total aggregate cost of such construction, to be financed out of funds currently on hand, will not exceed $1,890,000 and the cost of any single project would be limited to $472,500.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before November 26, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11994; Filed, Nov. 8, 1965; 8:46 a.m.]

[Docket No. G-18432 etc.]

NAFCO OIL AND GAS INC., ET AL.

Order Rescinding Certificates, Amending Order Issuing Certificate, Terminating Proceedings, Redesignating FPC Gas Rate Schedules, Accepting Supplements to FPC Gas Rate Schedules for Filing

NOVEMBER 1, 1965.

In the matter of Nafco Oil and Gas Inc. (Operator), et al., Docket No. G-18432; Oil and Gas Property Management, Inc. (Delaware), agent for Nafco Oil and Gas Inc., Docket No. CI65-885; Oil and Gas Property Management, Inc. (Delaware), agent for Nafco Oil and Gas Inc., Docket No. CI65-886; Nafco Oil and Gas Inc. (Operator), et al. v. Oil and Gas Property Management, Inc., Docket No. CI65-1345; Nafco Oil and Gas Inc. (Operator), et al., Docket No. IN-974; Nafco Oil and Gas Inc. (Operator), et al., Docket No. IN-975.

On May 20, 1963, the Commission issued a certificate of public convenience and necessity in Docket No. G-18432 to Nafco Oil and Gas Inc. (Nafco) authorizing, inter alia, the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Transmission Co. from acreage in Liberty, San Jacinto, and Wharton Counties, Tex., pursuant to Nafco's FPC Gas Rate Schedule Nos. 1 and 3. Nafco's interest in the subject properties was acquired in 1959. In 1961 Oil and Gas Property Management, Inc., a Delaware corporation (OGPM), assumed physical operation of the properties. During 1964 a dispute arose over operation of the properties and Nafco instituted suits in the State courts of Texas with respect to operation of the properties. At about the same time that the suits were filed in Texas, OGPM made certain filings with the Commission and requested to be substituted in lieu of Nafco as certificated operator of the properties. The Commission, unaware of the controversy between Nafco and OGPM, issued certificates to OGPM, amended the order issuing a certificate in Docket No. G-18432 by deleting therefrom Nafco's authorization to sell gas from the subject properties, and redesignated Nafco's FPC Gas Rate Schedule Nos. 1 and 3 as OGPM's FPC Gas Rate Schedule Nos. 1 and 2, respectively. Upon learning of OGPM's filings with the Commission, Nafco filed informal complaints in Docket Nos. IN-974 and IN-975 and stated that OGPM was without authority to make its filings. By the time said complaints had been filed the Commission had already acted upon OGPM's filings. Nafco subsequently filed a formal complaint in Docket No. CI65-1345.

As a result of the filing of the law actions in Texas, Nafco and OGPM entered into an agreement which provided for the owners of the properties involved to vote for Nafco or OGPM as operator. Nafco was elected operator of the properties dedicated to OGPM's FPC Gas Rate Schelule Nos. 1 and 2 as of September 1, 1965. Nafco has submitted an affidavit attesting to these facts pending receipt of operating agreements executed by the various owners of the properties. Accordingly, it is appropriate to restore Nafco to its position as certificated operator of the properties.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificates heretofore issued in Docket Nos. CI65-885 and CI65-886 should be rescinded and that the authorizations provided thereunder should be added to the certificate heretofore issued in Docket No. G-18432.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the proceedings pending in Docket Nos. CI65-1345, IN-974 and IN-975 should be terminated.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that OGPM's FPC Gas Rate Schedule Nos. 1 and 2 should be redesignated as rate schedules of Nafco and that the affidavit attesting to the election of Nafco as operator should be accepted for filing as a supplement to each of the rate schedules.

The Commission orders:

(A) The order issuing a certificate of public convenience and necessity in Docket No. G-18432 is amended by adding thereto authorization for Nafco Oil and Gas Inc. (Operator), et al., to sell natural gas from certain properties heretofore dedicated to Oil and Gas Property Management, Inc. (Delaware), agent for Nafco Oil and Gas Inc., FPC Gas Rate Schedule Nos. 1 and 2, and in all other respects said order shall remain in full force and effect.

(B) The certificates of public convenience and necessity heretofore issued to Oil and Gas Property Management, Inc. (Delaware) agent for Nafco Oil and Gas Inc., in Docket Nos. CI65-885 and CI65-886 are rescinded.

(C) The proceedings pending in Docket Nos. CI65-1345, IN-974 and IN-975 are terminated.

(D) Oil and Gas Property Management, Inc. (Delaware), agent for Nafco Oil and Gas Inc., FPC Gas Rate Schedule Nos. 1 and 2, as supplemented, are redesignated as Nafco Oil and Gas Inc. (Operator), et al., FPC Gas Rate Schedule Nos. 1 and 3, as supplemented.

(E) The affidavit dated September 30, 1965, attesting to the fact that Nafco has been elected operator of the subject properties is accepted for filing effective September 1, 1965, and designated as Supplement No. 17 to Nafco Oil and Gas Inc. (Operator), et al., FPC Gas Rate Schedule No. 1 and Supplement No. 13 to Nafco Oil and Gas Inc. (Operator), et al., FPC Gas Rate Schedule No. 3.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65-11995; Filed, Nov. 8, 1965; 8:46 a.m.]

[Docket No. CP66-129]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

NOVEMBER 1, 1965.

Take notice that on October 26, 1965, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill., 60603, filed an application in Docket No. CP66-129 pursuant to section 7(b) of the Natural Gas Act for permission and approval of the proposed abandonment by sale to Socony Mobil Oil Co., Inc. (Socony), of approximately 13.2 miles of 10-inch and 1.5 miles of 8-inch gas purchase pipeline, two gas purchase meter stations, and facilities appurtenant thereto, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The facilities, known as the Lundell Facilities and located in Duval County, Tex., are currently used to gather and to transport to Applicant's 20-inch Hagist Ranch Lateral natural gas produced in the Lundell Field Area by Socony, Texaco Inc. (Texaco), Sinclair Oil & Gas Co. (Sinclair), Humble Oil & Refining Co. (Humble) and the Lundell Heirs.

The application states that the above-named producers have elected to exercise their rights under the contracts dated March 1, 1963, March 27, 1963, April 10, 1963, and November 1, 1963, respectively, to process the gas which they produce in the Lundell Field prior to delivery to Applicant.

Applicant further states that Socony would gather, process and deliver to Applicant at the tailgate of the Hagist Ranch Gasoline plant such gas as is produced in the Lundell Field by the aforementioned producers. Socony would purchase the facilities from Applicant and operate them as a part of its Hagist Ranch Gas Gathering System.

Applicant has entered into a letter agreement dated September 10, 1965, which provides for amendments to change the delivery points proposed and for the sale of the above-described purchase lateral and appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 29, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of permission and approval for the proposed abandonment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65-11996; Filed, Nov. 8, 1965; 8:46 a.m.]

[Docket No. E-6797]

NIAGARA MOHAWK POWER CORP.

Notice of Application

NOVEMBER 1, 1965.

Take notice that Niagara Mohawk Power Corp. (Applicant), incorporated under the laws of the State of New York with its principal place of business at Syracuse, N.Y., filed an application in the above-entitled proceeding on October 19, 1965, for a supplemental order, pursuant to section 202(e) of the Federal Power Act, authorizing an increase in the amount and transmission rate of electric energy which Applicant is currently authorized to export to Canada.

By Commission order issued May 15, 1958, in the above docket, 19 FPC 693, Applicant was authorized to transmit electric energy from the United States to Canada in an amount not in excess of 300,000,000 kilowatt-hours per year at a rate of transmission not to exceed 280,000 kilowatts over certain electric transmission facilities located at the international border between the United States and Canada and covered by permits signed by the Chairman of the Federal Power Commission on September 26, 1955 and February 28, 1958, Docket Nos. E-6632 and E-6797, respectively.

Applicant now seeks authorization to transmit electric energy from the United States to Canada in an amount not in excess of 1,000,000,000 kilowatt-hours per year at a rate of transmission not to exceed 1,000,000 kilowatts. The increased amount of energy to be exported will be transmitted from the United States to Canada by Applicant over the same electric transmission facilities which it currently utilizes to export energy in the Niagara and St. Lawrence Rivers areas.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1965, file with the Federal Power Commission, Washington, D.C., 20426, a petition or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65-11997; Filed, Nov. 8, 1965; 8:46 a.m.]

[Docket Nos. CP66-119, CP66-121]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Applications

NOVEMBER 2, 1965.

Take notice that on October 22, 1965, Midwestern Gas Transmission Co. (Applicant), Post Office Box 774, Chicago, Ill., 60690, filed in Docket No. CP66-121 an application pursuant to section 3 of the Natural Gas Act requesting an order of the Commission authorizing Applicant to import natural gas from Canada to the United States. On the same date Applicant filed in Docket No. CP66-119 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation and sale of additional volumes of natural gas. Concurrently with the above two applications, Applicant also filed in Docket No. CP66-120, an application for a permit pursuant to Executive Order No. 10485 dated September 3, 1953, authorizing the construction, operation, maintenance, and connection of facilities at the international boundary between the United States and Canada. The proposal involved is more fully set forth in the aforementioned applications which are on file with the Commission and open to public inspection.

The above applications incorporate a proposal by Applicant to construct and operate additional facilities on its northern system and to increase its contract service to Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) from 158,000 Mcf of gas per day to 271,000 Mcf per day, an increase of 113,000 Mcf per day beginning November 1, 1966.

Applicant's northern system extends from the United States-Canadian international boundary near Emerson, Manitoba, to a point near Marshfield, Wis. The sole source of gas supply for Applicant's northern system is a gas purchase contract with Trans-Canada Pipe Lines Limited (Trans-Canada) dated April 14, 1960, as amended. This contract provides for the delivery of natural gas to Applicant at a point on the United States-Canadian border near Emerson, Manitoba. Applicant supplies natural gas to various customers from its northern system and is presently authorized to render a contract demand service of 158,000 Mcf per day to Michigan Wisconsin near Marshfield, Wis., under Applicant's Rate Schedule CD-2. Authorization to import natural gas and a Presidential Permit for construction and

operation of facilities at the United States-Canadian border was issued to Applicant on October 31, 1959, in Docket No. G-18313, et al. (22 FPC 775).

The gas proposed to be sold would be produced from fields located in the Province of Alberta, Canada, and would be delivered to Applicant at a point on the United States-Canadian border near Emerson, Manitoba. On October 15, 1965, in Docket Nos. CP66-110, CP66-111 and CP66-112, Great Lakes Gas Transmission Co. filed applications for authorization to import natural gas at or near this same location. Another related application was filed on October 15, 1965 by Michigan Wisconsin in Docket No. CP66-109, which application seeks authorization to construct and operate additional facilities on its system to enable it to receive the proposed additional volumes of gas and to deliver additional natural gas to its existing and proposed customers.

In order to carry out its proposed additional service, Applicant seeks authorization to construct 5.6 miles of 30-inch pipeline and new and additional metering and compressor facilities at five points in the State of Minnesota and at two points in the State of Wisconsin, totaling 25,000 horsepower. These facilities would increase the daily design capacity of Applicant's northern system to 333,719 Mcf of gas per day, an increase of 113,000 Mcf per day over the design capacity resulting from authorization issued in Docket No. CP64-308, et al., on August 10, 1965 (Opinion No. 469). The estimated total cost of the facilities proposed is $13,562,000. Applicant proposes to finance these additional facilities through the issuance of additional common stock.

Applicant states that it has entered into a Precedent Agreement with Trans-Canada wherein Trans-Canada has agreed to sell to Midwestern at the existing delivery point near Emerson, Manitoba, an additional contract demand quantity of 116.332 Mcf per day of natural gas, 113,000 Mcf of which would be sold by Applicant to Michigan Wisconsin and 3,332 Mcf of which would be required for compressor fuel.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before November 22, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 3, 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the proposed importation will not be inconsistent with the public interest and that a grant of the requested authorization and the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11998; Filed, Nov. 8, 1965; 8:46 a.m.]

[Docket Nos. RI66-61, RI66-81]

PAN AMERICAN PETROLEUM CORP., ET AL.

Order Consolidating Proceedings, Permitting Intervention, and Setting Contractual Matters for Hearing

NOVEMBER 2, 1965.

Pan American Petroleum Corp. (Operator), et al. (Pan American) on August 9, 1965, tendered for filing proposed revenue sharing increased rates of 11.7526 cents and 11.5961 cents per Mcf, which were designated as Supplement No. 21 to Pan American's FPC Gas Rate Schedule No. 57, for sales of gas to Phillips Petroleum Co. (Phillips) from Texas Railroad Commission District No. 10 and the Oklahoma Panhandle area, respectively. By order issued September 8, 1965, in Docket No. RI66-61 the Commission suspended Pan American's proposed rates for 1 day from the proposed effective date of September 13, 1965, or for 1 day from the date that Phillips makes effective its related increased rate of 15.22 cents, plus applicable tax reimbursement, which is suspended in Docket No. RI65-526,[1] whichever is later. The alternate suspension period was provided for because it appeared at the time that Pan American was not entitled as a contractual matter to place its proposed rates in effect until Phillips commenced collection of its suspended increased rate in Docket No. RI65-526.

Subsequent to the issuance of the suspension order herein, Phillips filed on September 10, 1965, a protest requesting that Pan American's proposed increased rates be rejected because under its interpretation of the contract there was no contractual basis for the filing made by Pan American. Pan American on September 27, 1965, filed an answer to Phillips' protest contesting Phillips' interpretation of the contract. Pan American contends that it is contractually entitled to the proposed rates because Phillips is "entitled to receive" the higher rate suspended in Docket No. RI65-526 upon which Pan American's filing is based. Pan American therefore requests that the September 8 suspension order be revised to permit it to collect the proposed rates, subject to refund, as of September 14, 1965.

If we were to shorten the suspension period in Docket No. RI66-61, as Pan American has requested, Phillips would be forced either to place its increased rate of 15.22 cents per Mcf in effect subject to refund in Docket No. RI65-526 or to absorb Pan American's rate increase, which is estimated to amount to $266,621 annually. Under these circumstances, we conclude that Pan American's request for a shortened suspension period should be denied. However, in light of the interpretation placed on the contractual provisions by Pan American and Phillips' protest with respect thereto, it is appropriate to set these contractual matters for immediate hearing.

Phillips also protested on September 13, 1965, the proposed revenue sharing increased rate of 12.00273 cents designated as Supplement No. 20 to the Kerr-McGee Oil Industries Inc. (Kerr-McGee), FPC Gas Rate Schedule No. 12, for sales of gas by Kerr-McGee to Phillips from Texas Railroad Commission District No. 10.[2] The proposed rate was suspended by order issued September 29, 1965, in Docket No. RI66-81 for one day until October 1, 1965, and thereafter until made effective as prescribed by the Natural Gas Act. Phillips contends that Kerr-McGee has improperly computed the rate to which it is entitled under the contract. Briefly, Kerr-McGee and Phillips differ as to which of Phillips' base prices for sales made to Michigan Wisconsin Pipeline Co. under its FPC Gas Rate Schedule No. 4 is applicable at this time in computing Kerr-McGee's contract rate. Kerr-McGee contends that Phillips' base rate of 8.84863 cents is applicable and that its base price should be increased by 165.72 percent which equals Phillips' increased rate 14.0635 cents (in effect subject to refund in Docket No. RI60-349) divided by Phillips' base price of 8.84863 cents×100. Phillips contends that its base rate of 9.3796 cents is applicable to the computation and that Kerr-McGee's base price should be increased by 149.937 percent which equals Phillips' 14.0635 cents rate divided by Phillips' base price of 9.3796 cents×100.

While the contractual disputes in Docket Nos. RI66-61 and RI66-81 are not the same, the two proceedings do involve the proper interpretation of similar contractual provisions. We therefore find it appropriate to consolidate these cases and to set the contractual matters involved here for immediate hearing, as hereinafter ordered. The justness and reasonableness of these rates, however, will be subject to determination in the appropriate area rate proceeding in the event and to the extent it is determined that there is contractual authorization for such filings.

Phillips in its protests also requested in the alternative that it be permitted to intervene in the above-entitled proceedings. Kerr-McGee does not object to Phillips' intervention, but Pan American asserts that such intervention is unnecessary. We conclude that the participa-

[1] Phillips could make its increased rate in Docket No. RI65-526 effective but has not as yet seen fit to do so.

[2] On September 29, Kerr-McGee filed an answer to Phillips' protest.

tion of Phillips in Docket Nos. RI66–61 and RI66–81 may be in the public interest.

It is not clear whether there might be some disagreement as to the facts involved here as well as to the proper legal interpretation of the facts. Accordingly, we shall provide for a prehearing conference at which the substantive matters to be resolved by formal hearing, if any will be set forth, and all matters that can be resolved without formal trial will be eliminated from hearing and settled by stipulation.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, and 16 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR, Chapter I), the above-designated proceedings are consolidated for the purpose of hearing and a public hearing shall be held with respect to the contractual issues involved in these proceedings pursuant to the procedures prescribed herein.

(B) A presiding examiner to be hereinafter designated by the Chief Hearing Examiner shall preside at the prehearing conference and the hearing in the above-designated proceedings pursuant to the Commission's rules of practice and procedure, and as further provided by this order.

(C) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before the Presiding Examiner to be designated shall commence at 10 a.m., on November 16, 1965, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., for the purpose of effectuating the intent of the Commission as set forth in the body of this order.

(D) After the prehearing conference, the Presiding Examiner shall give notice of the date of hearing and shall prescribe such other procedures as he deems appropriate in the disposition of these matters.

(E) Phillips is permitted to intervene in the above-entitled proceedings, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of Phillips shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene: *And, provided further,* That the admission of Phillips shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(F) Pan American's request for a shortened suspension period in Docket No. RI66–61 is denied.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65–11999; Filed, Nov. 8, 1965; 8:46 a.m.]

[Docket No. CP66–125]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

NOVEMBER 2, 1965.

Take notice that on October 22, 1965, Panhandle Eastern Pipe Line Co. (Applicant), Post Office Box 1348, Kansas City, Mo. 64141, filed in Docket No. CP66–125 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce and the construction of certain facilities in connection with a proposed interruptible sale to Marathon Oil Co. (Marathon), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate an operating, measuring, and regulating station to be located in Miami County, Kansas, to serve Marathon pursuant to a contract between Applicant and Marathon dated July 1, 1965. Under the contract, Applicant is not obligated to deliver in excess of 800 Mcf of natural gas per day.

Marathon proposes to use the gas in the secondary recovery of oil. The process involves the injection of air into old oil wells. The air-oil mixture is ignited, heating the formation and driving the oil to the pumping wells. Applicant states that the process is economical if natural gas is made available as proposed.

The estimated cost of the proposed facilities is $6,100, which will be financed from funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before November 26, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65–12000; Filed, Nov. 8, 1965; 8:46 a.m.]

[Docket No. RI66–138]

TENNECO OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, Effective Subject to Refund

OCTOBER 29, 1965.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 15, 1965.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual decrease	Date filing tendered	Effective date	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed decreased rate	
RI66-138...	Tenneco Oil Co. (Operator), et al., Post Office Box 18, Houston 1, Tex.	138	9	El Paso Natural Gas Co. (Monahans Field, Ward County, Tex.) (R.R. District No. 8) (Permian Basin Area).	$322	9-29-65	[1] 10-30-65	[2] 10-31-65	14.189	[3] [4] 14.5	RI61-475.

[1] The stated effective date is the first day after expiration of the required statutory notice.
[2] The suspension period is limited to 1 day.
[3] "Fractured" rate increase.
[4] Pressure base is 14.65 p.s.i.a.

Tenneco Oil Co. (Operator), et al., (Tenneco) request that their proposed rate increase be permitted to become effective as of October 1, 1965. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Tenneco's rate filing and such request is denied.

Tenneco, a producer-respondent in the Permian Basin Opinion No. 468, proposes a "fractured" rate increase from 14.189 cents to 14.5 cents per Mcf, amounting to $322 annually, for a sale of gas to El Paso Natural Gas Co. (El Paso) in the Permian Basin Area of Texas. Tenneco is contractually entitled to an increased rate of 15.7092 cents per Mcf but is limiting the increased rate to 14.5 cents per Mcf so as not to exceed the applicable area ceiling base rate of 14.5 cents per Mcf prescribed in Opinion No. 468.

The increased rate proposed by Tenneco involves a so-called Spraberry contract, in which the cashinghead gas is being processed and treated in buyer's Sealy-Smith plant, under a contract dated September 1, 1948. Since it is not clear that the gas sold under the subject rate schedule is of pipeline quality in accordance with the standards prescribed in Opinion Nos. 468 and 468-A, we shall suspend the proposed rate involved here for one day from October 1, 1965, the date of expiration of the statutory notice.

Tenneco shall file with the Commission as a condition of this order within 60 days of the date of issuance of this order a statement setting forth either that the gas sold under the subject rate schedule accords with all pipeline quality standards established in Opinion Nos. 468 and 468-A, or in which respects the gas deviates from such standards; the agreed cost to the purchaser of processing the gas to bring it to the pipeline quality standards established there with respect to each quality deviation; any upward or downward B.t.u. adjustment; and the resulting applicable area rate for the gas. Such statement shall be signed by both the seller and the purchaser. If the seller and the purchaser are unable to agree upon any or all of the particulars entering into the computation of the applicable area rate, the seller shall file the statement herein required which shall indicate the absence of agreement and supply the information required to compute the applicable area rate as well as the contentions of the parties with respect to the quality and amount of the adjustment for any item in dispute. The purchaser may file a separate statement setting forth its views within the period herein provided.

[F.R. Doc. 65-12002; Filed, Nov. 8, 1965; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-1849]

W. R. GRACE OVERSEAS DEVELOPMENT CORP.

Notice of Filing of Application for Order Exempting Company From All Provisions of the Act

NOVEMBER 3, 1965.

Notice is hereby given that W. R. Grace Overseas Development Corp. ("applicant"), 7 Hanover Square, New York, N.Y., 10005, a Delaware corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting it from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

The applicant was organized by W. R. Grace & Co. ("Grace") under the laws of the State of Delaware in September 1965. All of the authorized stock of applicant, consisting of 1,000 shares of common stock, without par value, will be purchased for $8,000,000 and held by Grace. Grace will also acquire any additional securities, other than debt securities, which applicant may issue in the future and will not dispose of any of the securities of applicant held by Grace except to the applicant or to a wholly owned subsidiary of Grace.

Grace, a Connecticut corporation, together with its majority owned subsidiaries, is a chemical-manufacturing, petroleum-producing and international industrial concern with transportation interests.

Applicant has been organized in order to finance the expansion and development of Grace's foreign operations in a manner which is designed to assist in improving the balance of payments position of the United States, in compliance with the voluntary cooperation program instituted by President Johnson in February 1965. Applicant intends to issue and sell an aggregate of $20,000,000 principal amount of Guaranteed Sinking Fund Debentures Due 1980 ("Debentures"). Grace will guarantee the principal, sinking fund, and interest payments on the Debentures. Any additional debt securities of applicant which may be issued to or held by the public will be guaranteed by Grace in the same manner as the Debentures.

It is intended that the assets of applicant will be invested in or loaned to foreign subsidiaries and affiliates of Grace and/or applicant and invested in obligations of foreign governments or foreign financial institutions maturing in 1 year or less; that at least 90 percent of such assets will be invested in or loaned to foreign companies, which are or will be immediately after such investments, majority-owned subsidiaries (as defined in section 2(a)(23) of the Act) of Grace and/or applicant, and which are primarily engaged in businesses other than that of investing, reinvesting, owning, holding or trading in securities. Applicant will proceed as expeditiously as possible with the investment of its assets in such manner. Pending the completion of such investment, applicant may invest its assets in obligations of foreign governments or foreign financial institutions maturing in 1 year or less in a proportion greater than that permitted above. Applicants will not acquire the securities representing such loans or investments for the purpose of sale and will not trade in such securities.

The U.S. Internal Revenue Service has ruled that United States persons will be required to report and pay interest equalization tax with respect to acquisitions of the Debentures, except where a specific statutory exemption is available. By financing its foreign operations through the applicant rather than through the sale of its own debt obligations, Grace will utilize an instrumentality the acquisition of whose debt obligations by United States persons would, generally, subject such persons to the interest equalization tax, thereby discouraging them from purchasing such debt obligations.

The Debentures are to be sold to underwriters for offering outside the United States and will be delivered to the underwriters against receipt of payment therefor outside the United States. The agreements among underwriters will contain covenants by each underwriter to the effect that he will not offer, sell or deliver Debentures in the United States or its territories or to citizens of or persons normally resident in the

United States or its territories and that any dealer to whom he sells Debentures will agree that he is purchasing the same as principal and not for reoffering, resale or delivery in the United States or to such citizens or residents. The agreements with dealers are to contain corresponding agreements by them.

Applicant intends to apply for listing of the Debentures on the New York Stock Exchange and register them under the Securities Exchange Act of 1934.

Applicant asserts that it is not necessary or appropriate in the public interest or consistent with the protection of investors to regulate applicant under the Act, for the following reasons: (1) The sole purpose of applicant is to assist in improving the balance of payments program of the United States by serving as a vehicle through which Grace may obtain funds in foreign countries for its foreign operations; (2) applicant will not deal or trade in securities; (3) the public policy underlying the Act is not applicable to applicant and the security holders of applicant do not require the protection of the Act, because the payment of the Debentures, which is guaranteed by Grace, does not depend on the operations or investment policy of applicant, for the Debenture holders may ultimately look to the business enterprise of Grace and its subsidiaries and affiliated companies rather than solely to that of applicant; (4) when the Debentures are listed on the New York Stock Exchange, the applicant's security holders will have the benefit of the disclosure and reporting provisions of the Securities Exchange Act of 1934 and of the New York Stock Exchange, and (5) the Debentures will be offered and sold abroad to foreign nationals under circumstances designed to prevent any reoffering or resale in the United States or to any U.S. citizen or resident.

Notice is further given that any interested person may, not later than November 15, 1965, 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, if any, 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant 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 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 information stated 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. 65-12015; Filed, Nov. 8, 1965; 8:48 a.m.]

[File No. 7-2477]

CALGON CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 3, 1965.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges and in the common stock of the following company, which security is listed and registered on one or more other national securities exchanges: Calgon Corp.; File 7-2477.

Upon receipt of a request, on or before November 19, 1965, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 65-12016; Filed, Nov. 8, 1965; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30 (Middle Atlantic Area) Amdt. 4]

MIDDLE ATLANTIC AREA

Delegation of Authority to Conduct Program Activities in the Regional Offices

Pursuant to the authority vested in the Area Administrator by Delegation of Authority No. 30 (Revision 10), 30 F.R. 972, as amended, 30 F.R. 2742, 11984 and 12343; Delegation of Authority 30 F.R. 3254, as amended, 30 F.R. 5778, 8080, and 13389, is further amended by revising Item I.C. 1. to read as follows:

I. * * *

C. *Procurement and Management Assistance.*

1.a. (Only to the Regional Directors, Philadelphia, Cleveland, and Richmond Regions.) To approve applications for Certificates of Competency received from small business concerns which are located within the geographical jurisdiction of the area office when the total value of the contract to be awarded as a result of the issuance of a COC does not exceed $350,000.

1.b. (Only to the Regional Directors, Baltimore and Washington, D.C., Regions.) To approve applications for Certificates of Competency received from small business concerns which are located within the geographical jurisdiction of the area office when the total value of the contract to be awarded as a result of the issuance of a COC does not exceed $100,000.

* * * * *

Effective date: October 1, 1965.

EDWARD N. ROSA, *Area Administrator, Middle Atlantic Area.*

[F.R. Doc. 65-12019; Filed, Nov. 8, 1965; 8:48 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

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.), and Administrative Order 579 (28 F.R. 11524) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods, for certificates issued under general learner regulations (29 CFR 522.1 to 522.9), and the principal product manufactured by the employer are as indicated below. Conditions provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Archbald Sewing Co., 140 Cherry Street, Archbald, Pa.; effective 10-11-65 to 10-10-66 (children's dresses).

Blue Bell, Inc., Oneonta, Ala.; effective 10–17–65 to 10–16–66 (men's and boys' overalls, western jackets).

Crystal Springs Shirt Corp., Crystal Springs, Miss.; effective 10–21–65 to 10–20–66 (boys' shirts).

The Dantan Co., Inc., Rankin Street, Dumas, Ark.; effective 10–18–65 to 10–17–66 (house dresses).

E & W of Kennett, Inc., Kennett, Mo.; effective 10–12–65 to 10–11–66 (men's and boys' dress shirts, western shirts).

E-Town Sportswear Corp., Elizabethtown, Ky.; effective 10–7–65 to 10–6–66 (men's slacks).

Form-O-Uth Brassiere Co., doing business as Marie Foundations Branch, 800 East Kingsmill, Pampa, Tex.; effective 10–14–65 to 10–13–66 (brassieres and girdles).

Greensboro Manufacturing Corp., 1900 East Bessemer Avenue, Greensboro, N.C.; effective 10–7–65 to 10–6–66 (women's and children's flannelette cotton nightwear and pajamas).

Honea Path Shirt Co., Honea Path, S.C.; effective 10–17–65 to 10–16–66 (men's and ladies' sport shirts).

Newport News Children's Dress Co., 824 39th Street, Newport News, Va.; effective 10–12–65 to 10–11–66 (children's and girls' dresses).

Phillips-Van Heusen Corp., Clayton, Ala.; effective 10–4–65 to 10–3–66 (dress shirts).

Henry I. Siegel Co., Inc., South Fulton, Tenn.; effective 10–14–65 to 10–13–66 (men's and boys' single pants).

Standard Romper Co., Inc., 321 Canco Road, Portland, Maine; effective 10–4–65 to 10–3–66 (children's shirts).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Anderson Bros. Consolidated Co's., Inc., 506 Floyd Street, Danville, Va.; effective 10–31–65 to 10–30–66; 10 learners (men's and women's work clothes).

Rob Roy Co., Inc., Ridgley, Md.; effective 10–14–65 to 10–13–66; 10 learners (boys' shirts).

Boris Smoler & Sons, Inc., 507 Jefferson Street, La Porte, Ind.; effective 10–7–65 to 10–6–66; 10 learners (dresses).

Southern Garment Co., Robbins, N.C.; effective 10–4–65 to 10–3–66; 10 learners (women's cotton wash dresses).

Tru-fit Trousers, 1129 Woodmere Avenue, Traverse City, Mich.; effective 10–9–65 to 10–8–66; 10 learners (men's trousers, ladies' slacks and shorts).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.80 to 522.85, as amended).

Monte Glove Co., Inc., Maben, Miss.; effective 10–7–65 to 10–6–66; 10 learners for normal labor turnover purposes (cotton work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 tod 522.43, as amended).

Union Manufacturing Co., 500 Sibley Avenue, Union Point, Ga.; effective 10–21–65 to 10–20–66; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Junior Form Lingerie Corp., Cairnbrook, Pa.; effective 10–11–65 to 10–10–66; 5 percent of the total number of factory production workers for normal labor turnover purposes (slips and pajamas).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.9, as amended).

The following learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employed, are indicated.

Yauco Super Knits, Ltd.; Apartado 652, Yuaco, P.R.; effective 9–27–65 to 9–26–66; 20 learners for normal labor turnover purposes in the occupations of: (1) knitting, for a learning period of 480 hours at the rates of 88 cents an hour for the first 240 hours and $1.03 an hour for the remaining 240 hours; and (2) machine stitching, for a learning period of 320 hours at the rates of 88 cents an hour for the first 160 hours and $1.03 an hour for the remaining 160 hours (sweaters).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. 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 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR 528.

Signed at Washington, D.C., this 29th day of October 1965.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 65–12006; Filed, Nov. 8, 1965; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[No. 34655]

BRADDOCK MOTOR FREIGHT INC., ET AL.

Joint Through Rates of Carriers Holding Ohio Irregular Route Authorities; Modified Procedure

A petition having been filed by certain motor carriers by their attorney, John S. Fessenden, 618 Perpetual Building, Washington, D.C., 20004, seeking to have stricken from the Commission's files tariffs naming joint-through rates on behalf of carriers holding certificates of registration covering Ohio irregular-route authorities; and good cause appearing:

It is ordered, That representations thereon be filed under modified procedure; that the parties comply with § 1.45 to § 1.54, inclusive, of the Commission's general rules of practice, the filing and service of pleadings to be as follows: (a) Opening statement of facts and argument by petitioners (and any party supporting petitioners) on or before December 6, 1965; (b) 45 days after that date, statement of facts and argument by parties in opposition; and (c) reply by petitioners (and any supporting party) 10 days thereafter.

It is further ordered, That within 15 days from the date hereof any party in opposition who desires to be served with a copy of petitioner's opening statement shall advise petitioner's attorney and this Commission of his identity and address.

And it is further ordered, That a copy of this order be served upon all parties of record; that a copy be posted in the office of the Secretary of this Commission; and that a copy be delivered to the Director, Division of Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 28th day of October A.D. 1965.

By the Commission, Commissioner Freas.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 65–12031; Filed, Nov. 8, 1965; 8:49 a.m.]

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