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Agencies in this issue—

Detailed list of Contents appears inside.

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Contents

(*Continued on next page*)

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, 1966, and specifies how they are affected.

7 CFR
717 ---- 16401
906 (2 documents) ---- 16401, 16402
PROPOSED RULES:
907 ---- 16470
1004 ---- 16471

14 CFR
39 ---- 16406
71 (4 documents) ---- 16407
97 ---- 16408
PROPOSED RULES:
39 ---- 16469
71 (2 documents) ---- 16469, 16470
73 ---- 16470

21 CFR
3 ---- 16403

29 CFR
60 ---- 16412
PROPOSED RULES:
60 ---- 16466

32 CFR
730 (2 documents) ---- 16404, 16405

38 CFR
14 ---- 16415

41 CFR
1–4 ---- 16417
Ch. 2 ---- 16420

49 CFR
177a ---- 16402

50 CFR
28 (4 documents) ---- 16414, 16415
33 ---- 16415

Rules and Regulations

Title 7—AGRICULTURE

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

[Amdt. 12]

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 717—HOLDING OF REFERENDA ON MARKETING QUOTAS

Subpart—Regulations Governing the Holding of Referenda on Marketing Quotas

CANVASSING BALLOTS IN 1967 RICE REFERENDUM

Basis and purpose. Pursuant to authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), the amendment herein to the regulations governing the holding of referenda on marketing quotas is issued to change the date for canvassing of ballots in the 1967 rice referendum.

Since the marketing quota referendum for rice is to be held during the period of January 3 through 5, 1967, to determine whether rice producers are in favor of marketing quotas for the 1967 crop, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date provisions of 5 U.S.C. 553 is impractical and contrary to the public interest and this amendment shall be effective upon filing this document with the Director, Office of the Federal Register.

The regulations governing the holding of referenda on marketing quotas are amended as follows:

1. In § 717.17(b), a new paragraph is added at the end thereof to read as follows:

§ 717.17 Holding referenda by mail ballot with respect to the 1967 and subsequent crops.

* * * * *

(b) Procedure for balloting by mail * * *

Notwithstanding the provisions of this section, for the rice referendum to be held during the period of January 3 through 5, 1967, the canvassing of returned ballots shall take place at the opening of the county office on the fourth day (January 9, 1967) following the close of the referendum period.

(Secs. 312, 317, 336, 343, 344a, 354, 358, 375, 377, 52 Stat. 46, 55, 56, 61, 66, as amended, 55 Stat. 88, 70 Stat. 206, as amended, 79 Stat. 66, secs. 106, 112, 70 Stat. 191, 195, 79 Stat. 1197; 7 U.S.C. 1312, 1314c, 1336, 1343, 1344a, 1354, 1358, 1375, 1377, 1824, 1836)

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

Signed at Washington, D.C., on December 21, 1966.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 66-13838; Filed, Dec. 21, 1966; 3:36 p.m.]

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

[Orange Reg. 12]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906, 31 F.R. 10461), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553 (1966)) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Texas Valley Citrus Committee on December 13, 1966; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges; and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 906.326 Orange Regulation 12.

(a) *Order.* (1) During the period beginning at 12:01 a.m., c.s.t., January 1, 1967, and ending at 12:01 a.m., c.s.t., February 1, 1967, no handler shall handle oranges of the following varieties:

(i) Navel oranges or Early and Midseason oranges, grown in the production area, unless such oranges grade at least U.S. No. 3, and are of a size not smaller than 2$\frac{7}{16}$ inches in diameter, except that not more than 10 percent, by count, of such oranges in any lot of containers, and not more than 15 percent, by count, of such oranges in any individual container in such lot, may be of a size smaller than 2$\frac{7}{16}$ inches in diameter;

(ii) Valencia and similar late type oranges, grown in the production area, unless such oranges grade at least U.S. No. 1, and are of a size not smaller than 3$\frac{5}{16}$ inches in diameter, except that not more than 10 percent, by count, of such oranges in any lot of containers, and not more than 15 percent, by count, of such oranges in any individual container in such lot, may be of a size smaller than 3$\frac{5}{16}$ inches in diameter; or

(iii) (*a*) Any oranges of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment.

(*b*) All oranges of any variety, grown as aforesaid, handled during the period specified in this section are subject to all applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during such period.

(2) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective terms in said marketing agreement and order; and terms relating to grade and diameter, when used herein, shall have the same meaning as is given to the respective terms in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) (51.680–51.712 of this title).

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

Dated: December 19, 1966.

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

[F.R. Doc. 66–13779; Filed, Dec. 22, 1966; 8:47 a.m.]

[Grapefruit Reg. 13]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906, 31 F.R. 10461), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553 (1966)) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Texas Valley Citrus Committee on December 13, 1966; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 906.327 Grapefruit Regulation 13.

(a) *Order.* (1) During the period beginning at 12:01 a.m., c.s.t., January 1, 1967, and ending at 12:01 a.m., c.s.t., February 1, 1967, no handler shall handle:

(i) Any container of grapefruit of any variety, grown in the production area, unless such grapefruit grade U.S. Fancy; U.S. No. 1 Bright; U.S. No. 1; U.S. No. 1 Bronze; U.S. Combination, with not less than 60 percent, by count, of the grapefruit in each container thereof grading at least U.S. No. 1 grade; or U.S. No. 2.

(ii) Any grapefruit of any variety, grown in the production area, which are of a size smaller than 3$^{9}/_{16}$ inches in diameter, except that not more than 10 percent, by count, of such grapefruit in any lot of containers, and not more than 15 percent, by count, of such grapefruit in any individual container in such lot, may be of a size smaller than 3$^{9}/_{16}$ inches in diameter; or

(iii) (*a*) Any grapefruit of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment.

(*b*) All grapefruit of any variety, grown as aforesaid, handled during the period specified in this section are subject to all applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during such period.

(2) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, shall have the same meaning as is given to the respective term in the United States Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) (51.620–51.685 of this title).

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

Dated: December 19, 1966.

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

[F.R. Doc. 66–13780; Filed, Dec. 22, 1966; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

PART 177a—COOPERATIVE AGREEMENTS WITH STATES

At a session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 14th day of December 1966.

It appearing, that pursuant to Public Law 89–170, section 205(f) of the Interstate Commerce Act (49 U.S.C. 305(f)) was amended to authorize the Commission to make cooperative agreements with the various States to enforce the economic and safety laws and regulations of the various States and the United States concerning highway transportation;

And it further appearing, that it is in the public interest to implement section 205(f) of the Interstate Commerce Act (49 U.S.C. 305(f), as amended) and to encourage the prompt execution of such cooperative agreements by the publication of the terms which may be incorporated therein;

And it further appearing, that pursuant to section 4(a) of the Administrative Procedure Act (80 Stat. 385; 5 U.S.C. 553) the terms hereinafter specified are deemed to be a general statement of agency procedure:

It is ordered, That Chapter I of Title 49 of the Code of Federal Regulations be amended by adding a new Part 177a to Subchapter B to read as follows:

Sec.
177a.1 Eligibility.
177a.2 Extent of acceptance.
177a.3 Cancellation.
177a.4 Exchange of information.
177a.5 Requests for assistance.
177a.6 Joint examination, investigations or inspections.
177a.7 Joint administrative activities related to enforcement of economic and safety laws and regulations.

AUTHORITY: The provisions of this Part 177a issued under sec. 1, 49 Stat. 546, as amended; 49 U.S.C. 304. Interpret or apply sec. 1, 49 Stat 550, as amended; 49 U.S.C. 305.

§ 177a.1 Eligibility.

Any State may agree with the Interstate Commerce Commission to enforce the economic and safety laws and regulations of said State and the United States concerning highway transportation by filing with the Secretary of said Commission at Washington, D.C. 20423, a written acceptance of the terms herein.

§ 177a.2 Extent of acceptance.

The written acceptance may be in letter form, signed by competent legal authority of said State and shall specify the terms herein in which said State will reciprocally participate.

§ 177a.3 Cancellation.

Cancellation or withdrawal, in whole or in part, from any agreement made under this chapter may be effected by written notice from either party indicating its effective date and served upon the Secretary of said Commission or the Governor of said State, as the case may be.

§ 177a.4 Exchange of information.

(a) *Interstate Commerce Commission furnishing information to State.* Information that comes to the attention of an employee of the Interstate Commerce Commission in the course of his official duties of examination, inspection, or investigation of the property, equipment, and records of a motor carrier or others, pursuant to section 220(d) of the Interstate Commerce Act, and that is believed to be a violation of any law or regula-

tion of the State pertaining to unauthorized, unsafe, or otherwise illegal motor carrier operations, shall be communicated to the State Regulatory Commission by an official of the Interstate Commerce Commission.

(b) *State furnishing information to Interstate Commerce Commission.* Information that comes to the attention of a duly authorized agent of the State in the course of his official duties of examination, inspection, or investigation of the property, equipment, and records of a motor carrier or others, and that is believed to be a violation of any provision of the economic and safety laws of the United States concerning highway transportation or the regulations of the Interstate Commerce Commission prescribed thereunder, shall be communicated to the Regional Director of the Interstate Commerce Commission's Bureau of Operations and Compliance for that State.

§ 177a.5 Requests for assistance.

(a) *State request for Interstate Commerce Commission assistance.* Upon written request of the State Regulatory Commission, the Bureau of Operations and Compliance Regional Director of Interstate Commerce Commission for that State shall, as time, personnel, and funds permit, obtain evidence for use by said State in the enforcement of its laws and regulations concerning unauthorized, unsafe, and otherwise illegal motor carrier operations. Evidence obtained in this manner shall be transmitted to the State Regulatory Commission together with the name and address of an agent or employee, if any, having knowledge of the facts, who shall to the extent possible be made available when necessary to testify as a witness in an enforcement proceeding or other action.

(b) *Interstate Commerce Commission request for State assistance.* Upon written request from a Regional Director of the Interstate Commerce Commission's Bureau of Operations and Compliance, the State Regulatory Commission shall, as time, personnel, and funds permit, obtain evidence in the State for use by the Interstate Commerce Commission in its enforcement of the economic and safety laws and regulations of the United States concerning highway transportation. Evidence obtained in this manner shall be transmitted to the Regional Director of the Interstate Commerce Commission together with the name and address of an agent or employee, if any, having knowledge of the facts, who shall to the extent possible be made available when necessary to testify as a witness in an enforcement proceeding or other action.

§ 177a.6 Joint examination, investigations, or inspections.

Upon agreement by the Regional Director of the Interstate Commerce Commission's Bureau of Operations and Compliance and the State Regulatory Commission, there will be conducted a joint examination, inspection, or investigation of the property, equipment, or records of motor carriers or others, for the enforcement of the economic and safety laws and regulations of the United States and the State concerning highway transportation. The said Regional Director of the Interstate Commerce Commission and the State Regulatory Commission shall decide as to the location and time, the objectives sought, and the identity of the person who will supervise the joint effort and make the necessary decisions. Any agent or employee of either Commission who has personal knowledge of pertinent facts shall to the extent possible be made available when necessary to testify as a witness in an enforcement proceeding or other action.

§ 177a.7 Joint administrative activities related to enforcement of economic and safety laws and regulations.

To facilitate the interchange of information and evidence, and the conduct of joint investigation and administrative action, the Regional Director of the Interstate Commerce Commission's Bureau of Operations and Compliance and the State Regulatory Commission shall, when warranted, schedule joint conferences of staff members of both agencies. Information shall be exchanged as to the nature and extent of the authority and capabilities of the respective agencies to enforce the economic and safety laws of the State or of the United States concerning highway transportation. The Interstate Commerce Commission and the State (or State Commission) shall use their best efforts to inform each other of changes in their rules and regulations.

It is further ordered, That this order shall become effective upon its publication in the FEDERAL REGISTER.

And it is further ordered, A copy of this order shall be mailed to the Chairman of the Regulatory Commission or the Governor of each State, and notice of its contents shall be given to all other persons 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, for publication therein.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-13799; Filed, Dec. 22, 1966; 8:49 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Dimethylsulfoxide (DMSO) Preparations; Clinical Testing and Investigational Use

In the FEDERAL REGISTER of November 25, 1965 (30 F.R. 14639), a statement of policy (21 CFR 3.52) was published concerning the termination of clinical testing and investigational use of dimethylsulfoxide (DMSO) preparations. A recent comprehensive evaluation of all available data on dimethylsulfoxide (DMSO) indicates that the drug may be of value in treating certain serious conditions which justify further clinical investigations. Accordingly, under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052, as amended, 1055; 21 U.S.C. 355, 371(a)) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120; 31 F.R. 3008), § 3.52 is revised to read as follows:

§ 3.52 Dimethylsulfoxide (DMSO) preparations; clinical testing and investigational use.

(a) Chronic-toxicity studies with dimethylsulfoxide (DMSO) in animals, including dogs, rabbits, and swine, reported by a consulting laboratory in England and by a number of laboratories in the United States show that the administration of dimethylsulfoxide (DMSO) causes changes in the refractive index of the lens in the eyes of such animals. On the basis of these reports, clinical testing of dimethylsulfoxide (DMSO) preparations was discontinued for a time and later resumed under very restricted conditions.

(b) A recent comprehensive evaluation of all available data on dimethylsulfoxide (DMSO) preparations indicates that the drug may be of value in treating certain serious conditions which justify further clinical investigation.

(c) No person may ship dimethylsulfoxide (DMSO) within the jurisdiction of the Federal Food, Drug, and Cosmetic Act for clinical testing in man until the proposal for such studies has had advance approval by the Commissioner of Food and Drugs on the basis of a Notice of Claimed Investigational Exemption for a New Drug (Form FD 1571, described in § 130.3(a)(2) of this chapter) justifying such studies.

(d) The Commissioner may approve proposed clinical studies involving the administration of dimethylsulfoxide (DMSO) preparations to man provided that all of the following conditions are met:

(1) The proposed study restricts the use of dimethylsulfoxide (DMSO) to cutaneous application in serious conditions, such as scleroderma, persistent herpes zoster, and severe rheumatoid arthritis, for which no satisfactory therapy is now available.

(2) The proposed study will be conducted in a medical center having adequate facilities and well-trained, experienced medical personnel.

(3) The proposed study provides that all subjects will receive a full examination:

(i) Including eye evaluation by ophthalmologists prior to receiving the drug, at intervals not exceeding 3 months during the study, and 3 months after discontinuing the drug, and

(ii) Including liver function tests and blood tests, prior to receiving the drug, at

intervals not exceeding 4 weeks during the study, and 4 weeks after discontinuing the drug.

(4) The proposal shows that patient consent requirements will be carefully observed and includes a commitment that patients will be fully informed of the effects of dimethylsulfoxide (DMSO) in animals and of the possibility that these may occur in humans.

(e) Dimethylsulfoxide (DMSO) preparations may be shipped within the jurisdiction of the act solely for tests in vitro and in laboratory research animals in accord with the provisions of § 130.3a(a) of this chapter.

(f) No person may ship dimethylsulfoxide (DMSO) within the jurisdiction of the act for clinical investigation in animals as provided in § 130.3a(b) of this chapter until his proposal for such studies has had advance approval by the Food and Drug Administration on the basis of the submission of information in accord with the provisions of § 130.3a(b) of this chapter.

(Secs. 505, 701(a), 52 Stat. 1052, as amended, 1055; 21 U.S.C. 355, 371(a))

Dated: December 15, 1966.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 66-13789; Filed, Dec. 22, 1966; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 730—ADMINISTRATIVE DISCHARGES AND RELATED MATTERS CONCERNING SEPARATIONS FROM THE NAVAL SERVICE

Subpart B—Marine Corps

MISCELLANEOUS AMENDMENTS

Scope and purpose. The amendments update Subpart B of Part 730, dealing with the Marine Corps, in regard to (a) general instructions relating to discharges and (b) procedures for discharge of reservists on inactive duty.

1. Section 730.101 is amended by revising paragraphs (a)–(c) to read as follows:

GENERAL INSTRUCTIONS RELATING TO DISCHARGES

§ 730.101 Effective time of separation.

(a) A discharge takes effect upon delivery of the discharge certificate. The release to inactive duty of members of the Regular Marine Corps who are transferred to the Marine Corps Reserve and concurrently released to inactive duty takes effect upon delivery of the separation document.

(b) In cases where discharge has been authorized or directed and the individual is unavailable due to his unauthorized absence or confinement in a civilian jail, prison, or institution and personal delivery of the certificate is not possible or feasible, the discharge will be effected on the date shown on the discharge certificate.

(c) Title 38, U.S. Code, section 106(c), provides that, for the purpose of entitlement to benefits administered by the Veterans' Administration, an individual discharged or released from a period of active duty shall be deemed to have continued on active duty during that period of time immediately following the date of such discharge or release from such duty determined in accordance with current regulations to be required for him to proceed to his home by the most direct route, and in any event, until midnight of the date of such discharge or release. If a discharged member is injured while returning home and requires hospitalization, he may be eligible for benefits from the Veterans' Administration and should be advised to file an appropriate claim with that agency.

* * * * *

2. Section 730.111 is revised to read as follows:

§ 730.111 Address of reserve director.

Each individual discharged and not reenlisted in the Regular Marine Corps will be informed of the address of the Director of the Marine Corps District nearest his prospective home and will be informed that, on questions relative to Marine Corps service, the Director may be consulted.

3. Section 730.126 is amended by adding paragraph (d) to read as follows:

§ 730.126 Separation of aliens.

* * * * *

(d) Section 315 of the Immigration and Nationality Act (8 U.S.C. 1426) provides for permanent denial of eligibility to become a citizen of the United States to any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such grounds. The statutory provision will be explained to any alien who makes application for discharge by reason of own convenience on the ground that he is an alien. An alien accepting discharge solely on the ground of being an alien shall be required to make the following signed statement of understanding on page 11 of the service record:

I understand that 8 U.S.C. 1426 provides that any alien who applies for discharge from the service of the United States on the ground that he is an alien, and is discharged from such service on such ground, shall be permanently ineligible to become a citizen of the United States.

Aliens separated under the foregoing conditions are not eligible and shall not be recommended for reenlistment.

4. Section 730.150 is amended by revising the introductory paragraph and paragraphs (h) and (i) to read as follows:

PROCEDURES FOR DISCHARGE OF RESERVISTS ON INACTIVE DUTY

§ 730.150 General.

The Commanding General, Marine Air Reserve Training Command; Directors, Marine Corps Districts and commanders of Organized Marine Corps Reserve Units (hereafter in this subpart referred to as commanders, where appropriate) are authorized to discharge enlisted reservists on inactive duty under their command in accordance with regulations promulgated for discharge of Marines from the Regular Marine Corps, and for reasons set forth below in paragraphs (a) to (i) of this section as amplified in §§ 730.151 to 730.159.

* * * * *

(h) Lack of interest (the Commanding General, Marine Air Reserve Training Command, and Directors, Marine Corps Districts, only are authorized to discharge for this reason).

(i) When classified in either a IV–F or I–Y status by the Selective Service System.

5. Sections 730.153 and 730.154 are revised to read as follows:

§ 730.153 Discharge for enlistment, induction or appointment in the Regular Marine Corps or for appointment in the Marine Corps Reserve.

The enlistment of a reservist is deemed to be automatically terminated upon his enlistment or induction in the Regular Marine Corps or upon his acceptance of appointment as an officer in the Regular Marine Corps or Marine Corps Reserve. Upon receipt of official notification of such enlistment, induction or appointment, commanders will close out the service record of the reservist concerned, showing the date of discharge as of the day prior to enlistment or induction in the Regular Marine Corps or of acceptance of appointment. The discharge certificate will be prepared and forwarded to, or retained by, the commander of the organization to which the individual will be assigned in his new status for delivery to the individual.

§ 730.154 Discharge for enlistment or induction in the Regular Army, Navy, Air Force, or Coast Guard.

Upon receipt of official notification of of the enlistment or induction of a reservist in the Regular Army, Navy, Air Force, or Coast Guard, commanders will effect the discharge of the reservist as of the day prior to such enlistment or induction, and forward the discharge certificate to his new organization, if known, otherwise to the Commandant of the Marine Corps (Code DGK) with a statement as to reason for nondelivery.

6. Section 730.158 is amended by revising paragraph (a) to read as follows:

§ 730.158 Discharge for lack of interest.

(a) The Commanding General, Marine Air Reserve Training Command, and Directors, Marine Corps Districts, are authorized to discharge, for lack of inter-

est, reservists on inactive duty under their command, provided the reservist concerned does not have a military obligation under existing law.

* * * * *

7. Section 730.159 is revised to read as follows:

§ 730.159 Discharge of reservists classified IV–F and I–Y.

Commanders will discharge those reservists assigned to their commands who are classified in either a IV–F or I–Y status by the Selective Service System.

8. Section 730.161(b) is amended by revising the introductory paragraph, paragraph (b)(2)(iii)(*c*), and paragraph 2 of the format of authorization set forth in paragraph (b)(3)(iii) to read as follows:

§ 730.161 Not physically qualified.

* * * * *

(b) The Commanding General, Marine Air Reserve Training Command, and Directors, Marine Corps Districts, are authorized to take the action described below in this paragraph upon being notified by the Commandant of the Marine Corps that an enlisted reservist not on active duty has been found by the Chief, Bureau of Medicine and Surgery, to be physically unqualified for retention in the Marine Corps Reserve.

(2) * * *

(iii) * * *

(*c*) Request a hearing before a physical evaluation board. Further, that expenses incurred incident to this hearing must be borne by the reservist concerned and that he would not be eligible to receive retired pay, severance pay or any other benefits as a result thereof. Additionally, that such hearings are expensive and that the physical evaluation board would be limited, in its recommended findings, to determining whether the Marine is physically qualified for active duty in the U.S. Marine Corps Reserve as set forth in § 725.427 of this chapter.

* * * * *

(3) * * *

(iii) * * *

2. In the evaluation of your physical condition, the Physical Evaluation Board is directed to conduct the proceedings in all respects as provided for hearings in the case of active-duty members except that it will make only the recommended finding that you are or are not physically qualified for active duty in the U.S. Marine Corps Reserve. The Board's attention is invited to paragraph 0427 of reference (a).

* * * * *

(Sec. 280, chs. 59 and 569, 70A Stat. 14, 89, 391, as amended, sec. 301, 80 Stat. 379; 5 U.S.C. 301, 10 U.S.C. 280, chs. 59 and 569)

By direction of the Secretary of the Navy.

[SEAL] WILFRED HEARN,
Rear Admiral, U.S. Navy, Judge Advocate General of the Navy.

DECEMBER 15, 1966.

[F.R. Doc. 66-13768; Filed, Dec. 22, 1966; 8:46 a.m.]

PART 730—ADMINISTRATIVE DISCHARGES AND RELATED MATTERS CONCERNING SEPARATIONS FROM THE NAVAL SERVICE

Subpart C—Navy and Marine Corps

Scope and purpose. Part 730 is amended by inserting, as Subpart C, the substance of Secretary of the Navy Instruction 1910.3, "Administrative Discharges," of May 2, 1966, an implementation of the controlling Department of Defense directive published in Part 41 of this title (31 F.R. 705, 2887).

Part 730 is amended by insertion of Subpart C to read as follows:

Subpart C—Navy and Marine Corps

Sec.
730.301 Purpose.
730.302 Policy.
730.303 Requirements.
730.304 Applicability.
730.305 Action.

AUTHORITY: The provisions of this Subpart C issued under secs. 280, 1162, 1163, ch. 569, 70A Stat. 14, 89, 391–393, as amended, 76 Stat. 508, 517, sec. 301, 80 Stat. 379; 5 U.S.C. 301, 10 U.S.C. 133(d), 280, 1162, 1163, 1168, ch. 569.

§ 730.301 Purpose.

To prescribe certain criteria, policy, and procedures for the administrative separation of enlisted members of the naval service pursuant to Part 41 of this title.

§ 730.302 Policy.

The administrative separation of enlisted members of the naval service will be accomplished by the authority of and pursuant to the criteria, policy, and procedures set forth in this subpart, the Marine Corps Personnel Manual, the Bureau of Naval Personnel Manual, the Manual of the Medical Department, and such other orders and regulations as may be published by the Secretary of the Navy, the Commandant of the Marine Corps, the Chief of Naval Personnel, and the Chief, Bureau of Medicine and Surgery.

§ 730.303 Requirements.

Pursuant to the provisions of §§ 41.4(d), 41.6(b)(10), and 41.8(b) of this title, the following policies, criteria, and procedures are established:

(a) *Periodic explanation of types of discharge certificates.* The Commandant of the Marine Corps and the Chief of Naval Personnel will, for their respective services, prescribe appropriate internal procedures for periodic explanation to enlisted members of the naval service of the various types of discharge certificates, the basis for their issuance, and their possible effects upon reenlistment, civilian employment, veterans' benefits, and related matters. As a minimum such explanation will be given each time the Articles of the Uniform Code of Military Justice (10 U.S.C. 801–940) are explained pursuant to Article 137 thereof (10 U.S.C. 937). Failure on the part of any member to receive or to understand such explanation, however, shall in no event be considered a defense in an administrative discharge proceeding or a bar thereto.

(b) *Discharge for the convenience of the Government.* In addition to the reasons specified in § 41.6(b) of this title, administrative separation for the convenience of the Government may be authorized, directed or further prescribed by the Commandant of the Marine Corps or the Chief of Naval Personnel in their respective services for the following reasons:

(1) For the purpose of holding public office as prescribed by the Commandant of the Marine Corps or the Chief of Naval Personnel.

(2) In the case of a married enlisted woman on active duty at her written request, provided she is not serving at a duty station which is sufficiently close to the location of her husband to permit the establishment of a joint household, and provided she meets such other conditions as may be prescribed by the Commandant of the Marine Corps or the Chief of Naval Personnel for their respective services.

(3) Obesity, provided that a medical officer certifies that the proximate cause of the obesity is the excessive voluntary intake of food and/or drink, rather than from organic or other similar causes apparently beyond the control of the member.

(4) Repeated below average or unsatisfactory markings or unfavorable or less than favorable remarks on noncommissioned or petty officer fitness or enlisted performance evaluation reports.

(5) Substandard personal behavior which reflects discredit upon the service or adversely affects the member's performance of duty, including but not limited to:

(i) A history of repeated minor disciplinary infractions, so as to present an administrative burden to the command.

(ii) Repeated overindulgence in alcoholic beverages, even though such overindulgence does not exist to a degree which would permit a medical officer to diagnose the member as an alcoholic.

(6) In the case of a member of the Naval or Marine Corps Reserve, on inactive duty, who, as a result of an annual or quadrennial physical examination required by Article 15–76, Manual of the Medical Department, or any other official physical examination, is determined by the Chief, Bureau of Medicine and Surgery, to be temporarily physically disqualified for retention in the Naval or Marine Corps Reserve or whose physical qualification status is undetermined pending further information or examination and the member fails to submit to or cooperate in such further physical examinations as are directed by competent authority in order to permit a final determination to be made regarding the member's physical qualification for retention in the Naval or Marine Corps Reserve.

(7) Upon the individual member's written request, where there is a demonstrated dependency or hardship, even though such dependency or hardship does not meet the criteria specified in § 41.6(d) of this title.

(8) Upon the recommendation of the Chief, Bureau of Medicine and Surgery, that a member of the naval service be separated for administrative reasons when such member is suffering from a condition not considered a physical disability and such condition has interfered with his performance of duty.

(9) When, as detrmined by a medical officer or his commanding officer, a member is allergic to clothing material or cannot be fitted with appropriate uniform clothing or provided with appropriate bedding.

(10) As a result of action taken with respect to the decisions or recommendations of the Naval Clemency Board, a Navy or Marine Corps Selection and Review Board, or a Navy or Marine Corps Enlisted Performance Board or other similar board.

(11) When, as determined by a medical officer, the member suffers from motion/travel sickness (989–), as listed in Department of Defense Disease and Injury Codes (TB MED 15/NAVMED P–5082/AFM 160–24).

(12) Upon the individual member's request, when a member becomes a "regular or duly ordained minister of religion," as that quoted phrase is defined in section 16(g) of the Universal Military Training and Service Act, as amended (50 U.S.C. App. 466(g)).

(13) Upon determination by a medical officer that a member of the Naval or Marine Corps Reserve, whether on active or inactive duty, as a member of any of the various Navy or Marine Corps officer candidate, officer training, or officer procurement programs, is not physically qualified for appointment as an officer in the naval service, although the member's physical disqualification does not fall within the purview of § 41.6(f) of this title, and although the member is physically qualified to serve as an enlisted member of the naval service.

(14) Upon the individual member's written request when the member is a Marine Corps Reservist on inactive duty as a member of the Platoon Leader's Class (Ground or Aviation).

(15) Where a member of the Naval Reserve, or the Marine Corps Reserve (Component Class Reserve Status Code "J"), on inactive duty, becomes disqualified for enlistment in the Regular Navy or Marine Corps.

(16) Where a member is properly inducted, enlisted, or reenlisted, but is erroneously given a higher grade than that to which he is entitled under applicable Navy and Marine Corps directives.

(17) Where a member is properly inducted, enlisted, or reenlisted, but has more than the maximum number of dependents authorized by applicable Navy and Marine Corps directives.

(18) Where a member is properly inducted, enlisted, or reenlisted, but, because of subsequent increased height, cannot be assigned duties appropriate to his office, rank, grade, or rating.

(19) Where a member is erroneously delivered a punitive discharge before review of the adjudged punitive discharge is final and, as a result of final review, the punitive discharge is set aside, suspended, or remitted.

(20) Where a recruit, upon enlistment, concealed the fact that he was married, or where a recruit, upon enlistment, concealed a juvenile or youthful offender record.

(21) At the individual member's written request, to permit the member to enter or return to an accredited college or university.

(22) At the individual member's written request, to permit the member to take final vows in a religious order.

(23) At the individual member's written request, to permit the member to accept employment of a seasonal nature.

(24) At the individual member's written request, on the grounds of being an alien.

(25) Where a member cannot be assigned appropriate duties because of security reasons.

(26) When a member is found to be serving in a constructive enlistment.

(27) As a result of the issuance of a writ of habeas corpus wherein it has been determined that the member's retention in the naval service is illegal.

(28) Where a member of the Naval or Marine Corps Reserve on inactive duty receives formal notice of induction from the Selective Service System, or enlists in the active service of any branch of the Armed Forces; or enlists in another Reserve component of any branch of the Armed Forces, or accepts an appointment as an officer in any branch of the Armed Forces.

(29) When a member is disenrolled from the Naval Academy and is not considered qualified for enlisted status.

(30) Upon written request of a married woman member of the Naval or Marine Corps Reserve on inactive duty, provided she has completed a minimum of 1 year of service and has served 6 months following any period of active duty for training.

(31) When a member of the Naval or Marine Corps Reserve on inactive duty fails to complete military training, is erroneously assigned a military obligation, or demonstrates a lack of interest.

(32) In the case of a member of the Naval or Marine Corps Reserve on inactive duty who fails to comply with request for physical examination or to submit additional information in connection therewith.

(33) When a member of the Naval or Marine Corps Reserve, on inactive duty, is classified in either a IV–F or I–Y status by the Selective Service System.

(c) *Record of proceedings of administrative discharge boards.* The record of proceedings of each administrative discharge board will be maintained as prescribed by the Commandant of the Marine Corps or by the Chief of Naval Personnel, for their respective services, but, as a minimum, shall contain: (1) A resume of the facts and circumstances, accompanied by supporting documents upon which the recommendation of the administrative discharge board was based including a summary of the testimony of all witnesses heard by the board; (2) the identity of the counsel for the respondent and his legal qualifications; (3) the identity of the recorder; and (4) a verbatim record of the board's findings and recommendations.

§ 730.304 Applicability.

The policy, criteria, and procedures prescribed in this subpart shall be employed in the administrative separation of any enlisted member of any component of the naval service.

§ 730.305 Action.

The Commandant of the Marine Corps, the Chief of Naval Personnel and the Chief, Bureau of Medicine and Surgery, will, as applicable, cause all current Navy and Marine Corps orders and directives pertaining to administrative discharge from the naval service to be amended to conform to the appropriate provisions of this subpart and Part 41 of this title.

By direction of the Secretary of the Navy.

[SEAL] WILFRED HEARN,
Rear Admiral, U.S. Navy,
Judge Advocate General of the Navy.

DECEMBER 16, 1966.

[F.R. Doc. 66–13767; Filed, Dec. 22, 1966; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT

[Docket No. 7817; Amdt. 39–328]

PART 39—AIRWORTHINESS DIRECTIVES

Superior Flow Oil Filters, Models US5003–27 and US5003–33

The original Supplemental Type Certificate authorizing the use of Superior Flow US5003–27 and US5003–33 oil filters has been amended, and now the STC authorizes only the use of US5003–27A and US5003–33A oil filters as applicable. However, four reports of failures of Superior Flow US5003–27 and US5003–33 oil filters during cold weather have been received. The failures have caused considerable engine damage. In order to further prevent oil filter failures and ensure the removal of the now unauthorized filters, the Agency has decided to issue an airworthiness directive requiring the

replacement of those oil filters with the required models.

Since immediate action is required in the interests of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practicable, and good cause exists for making this rule effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SUPERIOR FLOW. Applies to all aircraft with Continental E185, E225, O-470, IO-470 and Lycoming O-320, O-360, and IO-360 engines incorporating Superior Flow oil filters installed in accordance with Supplemental Type Certificates SE325SW, SE419SW, and SA401SW.

Unless already accomplished, compliance required before further flight except that the airplane may be flown in accordance with FAR 21.197 to a base where the replacement can be made.

Several failures of Superior Flow oil filter elements, P/N US5003-27 and US5003-33, have occurred during cold weather starts and runup, resulting in loss of oil and severe engine damage. To prevent additional failures of this nature, Superior Flow filter elements P/N US5003-27 and US5003-33 must be replaced with redesignated filter elements P/N US5003-27A and US5003-33A, respectively. If these new assemblies cannot be obtained, the entire oil filter system must be removed, and replaced with one approved for the engine.

(Superior Flow Service Bulletin No. 1A, dated Dec. 7, 1964, covers this subject.)

This amendment is effective January 2, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 16, 1966.

JAMES F. RUDOLPH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 66-13759; Filed, Dec. 22, 1966; 8:45 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 66-EA-94]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Agency is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the New Bedford, Mass., control zone.

Commencing February 10, 1967, the weather and communication requirements for maintaining the New Bedford, Mass., control zone between the hours of 2300 and 0700 daily will no longer be met. Therefore, alteration of the New Bedford, Mass., control zone will be necessary.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In view of the foregoing, the amendment is hereby adopted effective 0001 e.s.t. February 10, 1967 as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to add in the description of the New Bedford, Mass., control zone the sentence, "This control zone is effective from 0700 to 2300 hours, local time, daily.".

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 5, 1966.

MARTIN J. WHITE,
Acting Regional Director,
Eastern Region.

[F.R. Doc. 66-13760; Filed, Dec. 22, 1966; 8:45 a.m.]

[Airspace Docket No. 66-EA-95]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Agency is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Hyannis, Mass., control zone.

Commencing February 10, 1967, the weather and communication requirements for maintaining the Hyannis, Mass., control zone between the hours of 2300 and 0700 daily will no longer be met. Therefore, alteration of the Hyannis, Mass., control zone will be necessary.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In view of the foregoing, the amendment is hereby adopted effective 0001 e.s.t. February 10, 1967 as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to add in the description of the Hyannis, Mass., control zone the sentence, "This control zone is effective from 0700 to 2300 hours, local time, daily.".

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 8, 1966.

OSCAR BAKKE,
Director, Eastern Region.

[F.R. Doc. 66-13761; Filed, Dec. 22, 1966; 8:45 a.m.]

[Airspace Docket No. 66-EA-98]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Agency is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Bedford, Mass., control zone.

The U.S. Air Force plans to decommission the TVOR (BED) located at L. G. Hanscom Field, Bedford, Mass., and to cancel associated instrument approach procedures. Therefore a deletion of the reference to this facility in the Bedford, Mass., control zone will be required.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication in the FEDERAL REGISTER.

In view of the foregoing, the amendment is hereby adopted effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Bedford, Mass., control zone the phrase, "within 2 miles each side of the Bedford VORTAC 281° radial extending from the 5-mile radius zone to 12 miles W of the VORTAC;".

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 5, 1966.

MARTIN J. WHITE,
Acting Regional Director,
Eastern Region.

[F.R. Doc. 66-13762; Filed, Dec. 22, 1966; 8:45 a.m.]

[Airspace Docket No. 66-EA-92]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Transition Area

The Federal Aviation Agency is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Hopkinsville, Ky. (Hopkinsville-Christian County), transition area.

The standard instrument approach procedure to the Hopkinsville-Christian County Airport, Hopskinsville, Ky., has been canceled and therefore there will no longer be a requirement for the transition area.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication.

In view of the foregoing, the amendment is hereby adopted effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the Hopkinsville (Hopkinsville-Christian County), Ky., transition area description in its entirety.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 8, 1966.

OSCAR BAKKE,
Director, Eastern Region.

[F.R. Doc. 66-13764; Filed, Dec. 22, 1966; 8:45 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 7796; Amdt. 515]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

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

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

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Augusta VOR	Augusta RBn	Direct	2000	T-dn#	400-1	400-1	400-1
New Gloucester RBn	Augusta RBn	Direct	2500	C-dn	600-1	600-1	600-1½
				A-dn	800-2	800-2	800-2

Procedure turn S side of crs, 260° Outbnd, 080° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 1200′.
Crs and distance, facility to airport, 080°—1.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 miles after passing AUG RBn, make right-climbing turn to 2000′ direct AUG RBn. Hold W of AUG RBn, 080° Inbnd, 1-minute right turns.
NOTE: Approach from a holding pattern not authorized. Procedure turn required.
CAUTION: 597′ antenna, 1.3 miles W of airport. 545′ terrain and trees, 0.9 mile S of airport.
#Runway 17 departures. Climb on magnetic heading 150° to 1000′ before proceeding southwestbound.
MSA within 25 miles of facility: 000°–180°—2000′; 180°–270°—2500′; 270°–360°—3000′.

City, Augusta; State, Maine; Airport name, Augusta State; Elev., 357′; Fac. Class., BH; Ident, AUG; Procedure No. 1, Amdt. 1; Eff. date, 14 Jan. 67; Sup. Amdt. No. Orig.; Dated, 26 Sept. 64

BIL VOR	LOM	Direct	5300	T-dn%	300-1	300-1	200-½
BIL RBn	LOM	Direct	5300	C-dn	500-1	500-1	500-1½
Musselshell Int	LOM	Direct	6000	S-dn-9	500-1	500-1	500-1
Ryegate Int	LOM	Direct	5300	A-dn	800-2	800-2	800-2
Rapelje DME Fix	LOM	Direct	5300				

Procedure turn S side of crs, 275° Outbnd, 095° Inbnd, 5300′ within 10 miles.
Minimum altitude over facility on final approach crs, 4800′.
Crs and distance, facility to airport, 095°—4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing LOM, climb to 5300′ on bearing 095° from BI LOM within 10 miles, or when directed by ATC, climb to 5300′ on R 055, BIL VOR within 10 miles.
NOTE: Final approach from holding pattern at LOM not authorized. Procedure turn required.
%When weather is below 600-2 and aircraft is southeastbound, flight below 4700′ is prohibited SE of airport between BIL VOR radials 080° clockwise to 110° inclusive due to 4249′ tower, 3 miles SE of airport.
MSA within 25 miles of facility: 000°–090°—5300′; 090°–180°—6700′; 180°–270°—5900′; 270°–360°—5300′.

City, Billings; State, Mont.; Airport name, Logan Field; Elev., 3606′; Fac. Class., LOM; Ident., BI; Procedure No. 1, Amdt. 11; Eff. date, 14 Jan. 67; Sup. Amdt. No. 10; Dated, 3 Sept. 66

Oakwood Int	BKX RBn	Direct	3400	T-dn	300-1	300-1	200-½
				C-d	600-1	600-1	600-1½
				C-n	600-1½	600-1½	600-2
				S-dn-12	600-1	600-1	600-1
				A-dn*	NA	NA	NA

Procedure turn W side of crs, 290° Outbnd, 110° Inbnd, 3400′ within 10 miles.
Minimum altitude over facility on final approach crs, 2237′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of Brookings RBn, climb to 3400′ on 130° bearing from Brookings RBn within 10 miles.
CAUTION: Runways 8/26 and 18/36 unlighted.
*Alternate minimums of 800-2 apply at all times for air carriers with approved weather reporting service. When Brookings altimeter setting not available, use Watertown altimeter setting.
MSA within 25 miles of facility: 000°–090°—3100′; 090°–180°—3800′; 180°–270°—3100′; 270°–360°—3500′.

City, Brookings; State, S. Dak.; Airport name, Brookings Municipal; Elev., 1637′; Fac. Class., HW; Ident., BKX; Procedure No. 1, Amdt. 1; Eff. date, 14 Jan. 67; Sup. Amdt. No. Orig.; Dated, 6 Nov. 65

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
HOU VOR	AAP	Direct	1800	T-dn	300-1	300-1	200-½
Arcola Int	AAP	Direct	2500	C-dn	600-1	600-1	600-1½
Rosenberg Int	AAP	Direct	1600	A-dn	NA	NA	NA
Blue Int	AAP	Direct	1600				
Silver Int	AAP	Direct	1600				

Radar available.
Procedure turn W side of crs, 344° Outbnd, 164° Inbnd, 1600′ within 10 miles.
Minimum altitude over facility on final approach crs, 680′.
Crs and distance, facility to airport, 165°—0.4 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing AAP RBn, turn right, climb to 2000′ on crs of 270° from the AAP RBn within 10 miles.
NOTES: (1) No weather service. Unicom 24 hours, 122.8 and 122.1. (2) Runways 50′ wide. (3) Private facility approved for public use.
MSA within 25 miles of facility: 000°–090°—1800′; 090°–180°—2600′; 180°–270°—1500′; 270°–360°—1600′.

City, Houston; State, Tex.; Airport name, Andrau Airpark; Elev., 80′; Fac. Class., MHW; Ident., AAP; Procedure No. 1, Amdt. 9; Eff. date, 14 Jan. 67; Sup. Amdt. No. 8; Dated, 4 June 66

Huron RBn	LOM	Direct	2500	T-dn	300-1	300-1	200-½
Huron VOR	LOM	Direct	2500	C-dn	500-1	500-1	500-1½
				S-dn-12	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn W side of crs, 298° Outbnd, 118° Inbnd, 2500′ within 10 miles.
Minimum altitude over facility on final approach crs, 2400′.
Crs and distance, facility to airport, 118°—3.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing HO LOM, climb to 2800′ on 118° bearing from LOM within 10 miles, or when directed by ATC, climb to 3000′ on 045° bearing from HON RBn within 10 miles.
CAUTION: Runways 17–35 unlighted.
MSA within 25 miles of facility: 000°–090°—2700′; 090°–180°—2600′; 180°–270°—3100′; 270°–360°—2700′.

City, Huron; State, S. Dak.; Airport name, W. W. Howes Municipal; Elev., 1287′; Fac. Class., LOM; Ident., HO; Procedure No. 1, Amdt. 8; Eff. date, 14 Jan. 67; Sup. Amdt. No. 7; Dated, 17 July 65

Plattsburgh VOR	PBG RBn	Direct	3200	T-dn*	300-1	300-1	200-½
Riverview Int	PBG RBn	Direct	4000	C-dn	600-1	600-1	600-1½
Keesville Int	PBG RBn	Direct	3200	S-dn-19	600-1	600-1	600-1
				A-dn	NA	NA	NA

Radar available.
Procedure turn W side of crs, 019° Outbnd, 199° Inbnd, 3200′ within 10 miles.
Minimum altitude over facility on final approach crs, 1500′.
Crs and distance, facility to airport, 199°—4.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.1 miles after passing PBG RBn, make left-climbing turn to 3200′ direct to PBG RBn. Hold N of PBG RBn, 199° Inbnd, 1-minute right turns.
NOTES: (1) Approach from a holding pattern not authorized, procedure turn required. (2) Use Plattsburgh AFB altimeter setting. (3) Air carrier with weather service at the airport—Alternate minimums of 800-2 authorized. Use Plattsburgh altimeter setting.
*300-1 required for takeoff, Runway 1.
MSA within 25 miles of facility: 000°–090°—2500′; 090°–180°—3000′; 180°–270°—5500′; 270°–360°—5000′.

City, Plattsburgh; State, N.Y.; Airport name, Plattsburgh Municipal; Elev., 371′; Fac. Class., MHW; Ident., PBG; Procedure No. 1, Amdt. 2; Eff. date, 14 Jan. 67; Sup. Amdt. No. 1; Dated, 30 July 66

Bradley Int	BD LOM	Direct	2500	T-dn%	300-1	300-1	200-½
Meadow Int	BD LOM	Direct	3000	C-dn	600-1	600-1	600-1½
Bristol Int	Penwood Int	Direct	2700	S-dn-6	600-1	600-1	600-1
Penwood Int	BD LOM (final)	Direct	1700	A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of crs, 238° Outbnd, 058° Inbnd, 2500′ within 10 miles.
Minimum altitude over facility on final approach crs, 1700′.
Crs and distance, facility to airport, 058°—4.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing BD LOM, make right-climbing turn to 2500′ direct BD LOM. Hold SW of BD LOM, 058° Inbnd, 1-minute right turns.
NOTES: (1) Penwood Int and Bristol Int may be substituted by a radar fix. (2) Final approach from a holding pattern not authorized. Procedure turn required.
CAUTION: 768′ obstruction light on hills, 2.4 miles W of airport.
%Departures from Runway 33, make a right turn to 350°, as soon as practicable after takeoff, to 1500′.
MSA within 25 miles of facility: 000°–270°—2500′; 270°–360°—3000′.

City, Windsor Locks; State, Conn.; Airport name, Bradley Field; Elev., 173′; Fac. Class., LOM; Ident., BD; Procedure No. 1, Amdt. 14; Eff. date, 14 Jan. 67; Sup. Amdt. No. 13; Dated, 9 Apr. 66

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

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-dn%	300-1	300-1	200-½
				C-dn*@	400-1	500-1	500-1½
				S-dn-36*#@	400-1	400-1	400-1
				A-dn*@	800-2	800-2	800-2

Procedure turn E side of crs, 168° Outbnd, 348° Inbnd, 2300′ within 10 miles.
Minimum altitude over facility on final approach crs, 2300′.
Crs and distance, facility to airport, 348°—5.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.4 miles after passing DEC VOR, make right turn, climb to 2300′ direct to DEC VOR.
NOTE: Use Champaign, Ill., altimeter setting when control zone not effective.
*These minimums apply at all times for air carriers with approved weather reporting service.
#Reduction not authorized for nonstandard REILS.
@Circling and straight-in ceiling minimums are raised 100′ and alternate minimums not authorized when control zone not effective.
%When weather is less than 1100-1 flight below 2300′ not authorized beyond 6 miles N of airport between R 345° clockwise to R 017° of the DEC VOR due to 1749′ tower, 7 miles N.
MSA within 25 miles of facility: 000°–090°—2700′; 090°–180°—2000′; 180°–270°—2100′; 270°–360°—2600′.

City, Decatur; State, Ill.; Airport name, Decatur Municipal; Elev., 679′; Fac. Class., L-BVOR; Ident., DEC; Procedure No. 1, Amdt 5; Eff. date, 14 Jan. 67; Sup. Amdt. No. 4; Dated, 12 Mar. 66

Victory Int	Int final approach crs, R 186°	056°	3000	T-dn*	300-1	300-1	200-½
Int final approach crs	Glens Falls Fan Marker (final)	006°	1800	C-dn	800-1	800-1	800-1½
Cambridge VOR	Miller Int	Direct	3200	S-dn-1	NA	NA	NA
Miller Int via final approach crs	Glens Falls Fan Marker (final)	006°	1800	A-dn	800-2	800-2	800-2
Albany VOR	Miller Int	Direct	3000	After passing Glens Falls Fan Marker, the following minimums are authorized:**			
				C-dn	500-1	500-1	500-1½
				S-dn-1#	500-1	500-1	500-1

Procedure turn E side of crs, 186° Outbnd, 006° Inbnd, 2500′ within 10 miles.
Minimum altitude over facility on final approach crs, 1100′.
Crs and distance, GFL Fan Marker to airport, 008°—4.8 miles; breakoff point to Runway 1, 012°—0.8 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished when over Glens Falls VOR (or 4.8 miles after passing GFL Fan Marker), make a right-climbing turn to 3000′ to Miller Int. Hold S of Miller Int on GFL VOR R 186°, one-minute right turns, 006° Inbnd.
CAUTION: 535′ antenna, 1.3 miles SSW of airport.
*300-1 required on Runway 30.
**Glens Falls Fan Marker may be substituted by a 5.1-mile DME Fix.
#Reduction not authorized.
MSA within 25 miles of facility: 000°–090°—4000′; 090°–180°—5000′; 180°–270°—3500′; 270°–360°—4500′.

City, Glens Falls; State, N.Y.; Airport name, Warren County; Elev., 328′; Fac. Class., L-BVORTAC; Ident., GFL; Procedure No. 1, Amdt. 5; Eff. date, 14 Jan. 67; Sup. Amdt. No. 4; Dated, 25 Dec. 65

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

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Deer Park VOR	Garden Int (9-mile DME/Radar Fix)	Direct	2000	T-dn	300-1	300-1	200-½
Garden Int (9-mile DME/Radar Fix)	Elmont Int (4-mile DME/Radar Fix)	Direct	912	C-dn	900-1	900-1	900-1½
Elmont Int (4-mile DME/Radar Fix)	JFK VOR (final)	Direct		S-dn-22L	900-1	900-1	900-1
				A-dn	900-2	900-2	900-2
				If Elmont Int (4-mile DME/Radar Fix) identified, the following minimums apply:*			
				C-dn	600-1	600-1	600-1½
				S-dn-22L#	500-1	500-1	500-1

Radar available.
Procedure turn not authorized.
Minimum altitude on final approach crs (JFK R 048°) over Garden Int (9-mile DME/Radar Fix)—2000′ over Elmont Int (4-mile DME/Radar Fix)—912′.
Facility on airport. Breakoff point to runway, 222°—1 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, 1.8 miles after passing Elmont Int., climb straight ahead to JFK VOR, then via JFK R 189° to Channel Int climbing to 2000′. Hold S, 1-minute right turns, Inbnd crs 009°, or if Elmont Int not identified proceed direct to JFK VOR then climb to 2000′ via JFK R 189° to Channel Int. Hold S, 1-minute right turns, Inbnd crs 009°.
*Aircraft must be equipped with dual VOR receivers, VOR and DME receivers, or position established over Elmont Int by Kennedy Radar.
#500-¾ for HIRL. 500-½ for ALS authorized except for 4-engine turbojet aircraft.
MSA within 25 miles of facility: 000°–090°—1900′; 090°–180°—1400′; 180°–270°—1600′; 270°–360°—2600′.

City, New York; State, N.Y.; Airport name, John F. Kennedy International; Elev., 12; Fac. Class., H-BVORTAC; Ident., JFK; Procedure No. Ter VOR-22L, Amdt. 12; Eff. date, 14 Jan. 67; Sup. Amdt. No. 11; Dated, 26 Nov. 66

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

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
20-mile Fix (R 019°)	10-mile Fix (R 019°)	Direct	4200	T-dn*	300-1	300-1	200-½
10-mile Fix (R 019°)	7-mile Fix (R 019°)	Direct	2700	C-dn	500-1	500-1	500-1½
7-mile Fix (R 019°)	4-mile Fix (final)	Direct	1400	S-dn-19#	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Procedure turn not authorized.
Minimum altitude on approach radial: 20-mile DME Fix to 10-mile DME Fix, R 019°, 4200'; 10-mile DME Fix to 7-mile DME Fix, R 019°, 2700'; 7-mile DME Fix to 4-mile DME Fix (final) 1400'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished when over GFL VOR, climb straight ahead to 3000' to Miller Int. Hold S of Miller Int, 1-minute right turns, 006° Inbnd.
CAUTION: (1) 535' antenna, 1.3 miles SSW of airport. (2) Turbulence may be encountered during this approach.
#Reduction not authorized.
*300-1 required on Runway 30.
MSA within 25 miles of facility: 000°-090°—4000'; 090°-180°—5000'; 180°-270°—3500'; 270°-360°—4500'.

City, Glens Falls; State, N.Y.; Airport name, Warren County; Elev., 328'; Fac. Class., L-BVORTAC; Ident., GFL; Procedure No. VOR/DME No. 1, Amdt. 2; Eff. date, 14 Jan. 67; Sup. Amdt. No. 1; Dated, 20 Mar. 65

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

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
BIL VOR	LOM	Direct	5300	T-dn*%	300-1	300-1	200-½
BIL RBn	LOM	Direct	5300	C-dn	500-1	500-1	500-1½
8-mile DME Fix, R 284°	OM (final)	Direct	5000	S-dn-9#¢	200-½	200-½	200-½
Musselshell Int	LOM	Direct	6000	A-dn	600-2	600-2	600-2
Rapelje DME Fix	LOM	Direct	5300				
Ryegate Int	LOM	Direct	5300				
12-mile DME Fix, R 284°, BIL VOR	W crs ILS (final)	Via R 284°, BIL VOR.	5000				
R 195°, BIL VOR clockwise	R 284°, BIL VOR	Via 8-mile DME Arc.	5300				

Procedure turn S side of crs, 275° Outbnd, 095° Inbnd, 5300' within 10 miles.
Minimum altitude at glideslope interception Inbnd, 5000'.
Altitude of glide slope and distance to approach end of runway at OM, 4894'—4 miles; at MM, 3815'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing LOM, climb to 5300' on E crs of the ILS within 10 miles, or when directed by ATC, climb to 5300' on R 055°, BIL VOR within 10 miles, or climb to 5300' on R 114°, BIL VOR within 10 miles.
NOTE: Final approach from holding pattern at LOM not authorized. Procedure turn required.
*RVR 2400' authorized Runway 9.
%When weather is below 600-2 and aircraft is southeastbound, flight below 4700' is prohibited SE of airport between BIL VOR radials 080° clockwise to 110° inclusive due to 4249' tower, 3 miles SE of airport.
#400-¾ required when glide slope not utilized. 400-½ authorized with operative ALS except for 4-engine turbojets.
¢RVR 2400'. Descent below 3806' not authorized unless approach lights are visible.

City, Billings; State, Mont.; Airport name, Logan Field; Elev., 3606'; Fac. Class., ILS; Ident., I-BIL; Procedure No. ILS-9, Amdt. 14; Eff. date, 14 Jan. 67; Sup. Amdt. No. 13; Dated, 3 Sept. 66

Huron RBn	LOM	Direct	2500	T-dn	300-1	300-1	200-½
Huron VOR	LOM	Direct	2500	C-dn	500-1	500-1	500-1½
				S-dn-12*%	300-¾	300-¾	300-¾
				A-dn	800-2	800-2	800-2

Procedure turn W side of crs, 298° Outbnd, 118° Inbnd, 2500 within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2500'.
Altitude of glide slope and distance to approach end of runway at OM, 2465'—3.9 miles; at MM, 1488—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing LOM, climb to 2800' on SE crs, ILS within 10 miles, or when directed by ATC, climb to 3000' on 045° bearing from HON RBn within 10 miles.
CAUTION: Runways 17-35 unlighted.
*No approach lights.
%400-1 required when glide slope not utilized. 400-¾ authorized, with operative HIRL, except for 4-engine turbojets.

City, Huron; State, S. Dak.; Airport name, W. W. Howes Municipal; Elev., 1287'; Fac. Class., ILS; Ident., I-HON; Procedure No. ILS-12, Amdt. 10; Eff. date, 14 Jan. 67; Sup. Amdt. No. 9; Dated, 2 Oct. 65

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Bradley Int	BD LOM	Direct	2500	T-dn*%	300-1	300-1	200-½
Meadow Int	BD LOM	Direct	3000	C-dn	500-1	500-1	500-1½
Bristol Int	Penwood Int	Direct	2700	S-dn-6#	200-½	200-½	200-½
Penwood Int	BD LOM (final)	Direct	1700	A-dn	600-2	600-2	600-2
				With glide slope inoperative:			
				S-dn-6**	500-1	500-1	500-1

Radar available.
Procedure turn S side of crs, 238° Outbnd, 058° Inbnd, 2500' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 1700'.
Altitude of glide slope and distance to approach end of runway at OM, 1671'—4.5 miles; at MM, 416'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing BD LOM, climb to 3000' on NE crs of ILS to CTR VOR, R 149°, then SE on ORW VOR, R 330° to Skylark Int. Hold E of Skylark Int., 1-minute right turns, 276° Inbnd.
NOTES: (1) Penwood Int and Bristol Int may be substituted by a radar fix. (2) Final approach from a holding pattern not authorized. Procedure turn required. (3) Glide slope unusable below 373'.
CAUTION: 768' obstruction light on hills, 2.4 miles W of airport.
*Departures from Runway 33, make a right turn to 350°, as soon as practicable after takeoff, to 1500'.
%RVR 2000' 4-engine turbojets, 1800' other aircraft authorized for Runway 6.
#RVR 2000' authorized for 4-engine turbojets; RVR 1800' authorized for all other aircraft, Runway 6. Descent below 373' not authorized unless approach lights are visible.
**500-¾ authorized with operative high-intensity runway lights, except for 4-engine turbojets; 500-½ authorized with operative ALS, except for 4-engine turbojets.

City, Windsor Locks; State, Conn.; Airport name, Bradley Field; Elev., 173'; Fac. Class., ILS; Ident., I-BDL; Procedure No. ILS-6, Amdt. 16; Eff. date, 14 Jan. 67; Sup. Amdt. No. 15; Dated, 9 Apr. 66

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on December 7, 1966.

W. E. ROGERS,
Acting Director, Flight Standards Service.

[F.R. Doc. 66-13437; Filed, Dec. 22, 1966; 8:45 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 60—IMMIGRATION; AVAILABILITY OF, AND ADVERSE EFFECT UPON, AMERICAN WORKERS

Certification and Noncertification Schedules

In the July 9, 1966, and the July 22, 1966, issues of the FEDERAL REGISTER (31 F.R. 9420, 9998), there were published proposals to revise Schedules A and B of Part 60 of Title 29 of the Code of Federal Regulations. Interested persons were invited to file statements of data, views, or argument in regard to the proposals (31 F.R. 9420, 9808, 9998, 10580). After consideration of all such relevant material as was presented, I have decided to and do hereby amend 29 CFR Part 60 as set forth below.

As the only function of this amendment is to relieve a restriction upon immigration, delay in its effective date is not required (5 U.S.C. 1003(c)). Accordingly, the amendment shall become effective immediately.

1. Subparagraph (1) of 29 CFR 60.2(a) is revised to read as follows:

§ 60.2 Certification and noncertification schedules.

(a) *Determination.* To reduce the delay in processing an alien's request for visa, the determination has been made by the Secretary of Labor pursuant to section 212(a)(14) that:

(1) For the categories of employment described in Schedule A and in the geographic areas therein set forth, there are not sufficient workers who are able, willing, qualified and available for employment in such categories, and the employment of aliens in such categories and in such areas will not adversely affect the wages and working conditions of workers in the United States similarly employed.

* * * * *

2. The schedules at the end of 29 CFR Part 60 are revised to read as follows:

SCHEDULE A

Group I: Persons who received an advance degree in a particular field of study from an institution of higher learning accredited in the country where the degree was obtained (comparable to a Ph. D. or master's degree given in American colleges or universities).

Group II: Persons who have received a degree conferred by an accredited institution of higher learning in any of the following specialties or have experience or a combination of experience and education equivalent to such a degree:

Accounting and Auditing.
Aeronautical Engineering.
Architecture.
Chemical Engineering.
Chemistry.
Civil Engineering.
Dietetics.
Electrical Engineering.
Electronic Engineering.
Industrial Engineering.
Mathematics.
Mechanical Engineering.
Metallurgy and Metallurgical Engineering.
Nuclear Engineering.
Nursing.
Pharmacy.
Physical Therapy.
Physics.

Group II Occupational Definitions: These definitions are intended as descriptive guidelines and not as mandatory qualification requirements.

ACCOUNTING AND AUDITING

The application of the principles of accounting or auditing to examine, analyze, or interpret accounting records for the purpose of giving advice or preparing statements and installing or advising on systems of recording costs or other budgetary and financial data.

AERONAUTICAL ENGINEERING

The application of the principles and theories of aeronautical engineering to solve problems and design and construct aircraft, spacecraft, and missiles, utilizing accessory techniques of mechanical, electrical, electronic and powerplant engineering. Typical specializations are aerodynamics, design, electronics, flight-testing, structural dynamics, thermodynamics, and weapons-control research.

ARCHITECTURE

The application of the principles and theories of architecture to design and construct buildings, marine craft, and related structures according to aesthetic and functional factors.

CHEMICAL ENGINEERING

The design of chemical-plant equipment and research to develop and improve processes for manufacturing chemicals and products, such as gasoline, synthetic rubber, plastics, detergents, cement, and paper and pulp, applying principles and technology of chemistry, physics, mechanical and electrical engineering and other related fields.

CHEMISTRY

Research in the chemical and physical properties and compositional changes of substances. Specialization generally occurs in one or more branches of chemistry, such as organic chemistry, inorganic chemistry, physical chemistry, analytical chemistry, and biochemistry.

CIVIL ENGINEERING

The application of the principles and techniques of civil engineering to perform a variety of engineering work in planning, designing, and overseeing construction and maintenance of structures and facilities, such as roads, railroads, airports, bridges, harbors, channels, dams, irrigation projects, pipelines, powerplants, water and sewage systems, and waste disposal units. Typical specializations are construction; hydraulics; structures; purification plants; city planning; materials; and airport, railroad, irrigation, sewage disposal, sanitary, and highway engineering. Frequently requires knowledge of industrial trends, population growth, zoning laws, and State and local building codes and ordinances.

DIETETICS

The application of the principles of nutrition to plan menus and diets and direct the preparation and serving of meals. Includes activities involved with food service programs designed to feed individuals and groups with special nutritional requirements in schools, restaurants, and other public or private institutions. Participation in research or instruction in the field of nutrition.

ELECRICAL ENGINEERING

The application of the laws of electrical energy and the principles of engineering for the generation, transmission, and use of electricity for domestic, commercial, industrial, and military consumption. Design and development of machinery and equipment for production and utilization of electric power. Typical specializations are power generation and distribution, atomic power generation, electrical and electronic equipment manufacturing, radio and television broadcasting, research, and telephone, telegraph, and electronic computer engineering.

ELECTRONIC ENGINEERING

Research and development concerned with design and manufacture of a variety of electronic apparatus and devices and their application to commercial, military, scientific and medical equipment, processes, and problems, utilizing principles and theories of electronic engineering. Direction of operation and maintenance of electronic equipment and recommendations to correct designs based upon operational evaluation.

INDUSTRIAL ENGINEERING

The application of the principles of industrial engineering to perform a variety of engineering work concerned with the design and installation of integrated systems of personnel, materials, machinery, and equipment, utilizing accessory techniques of mechanical and other engineering specialties. Typical specializations are plant layout; production methods and standards; cost control; quality control; time, motion, and incentive studies; and methods, production, and safety engineering.

MATHEMATICS

The development of methodology in mathematical statistics and actuarial science; the application of original and standardized mathematical techniques to the solution of problems in science, engineering, management, military strategy, and operations analysis; and the mathematical statement of problems for solution by data-processing systems.

MECHANICAL ENGINEERING

The application of the principles of physics and engineering for the generation, transmission, and utilization of heat and mechanical power, and for the design and production of tools and machines. Typical specializations are power generation and transmission, hydraulics, instrumentation, automotive engineering, railroad equipment engineering, heating and ventilating, air conditioning, machine design, and research.

METALLURGY AND METALLURGICAL ENGINEERING

The application of the principles of metallurgy and metallurgical engineering to the extraction of metals from ores; the processing and refining of them into final form; and the design and development of metallurgical process methods. Accessory techniques used are those found in chemistry, geology, ceramics, mineralogy, and in mining, chemical, and mechanical engineering.

NUCLEAR ENGINEERING

The application of scientific knowledge of nuclear reactions and radiations, and principles of engineering for the production of heat and power, transmutation of elements, and production of neutrons, gamma radiation, and radioisotopes.

NURSING

The application of the art and science of nursing which reflects comprehension of principles derived from the physical, biological, and behavioral sciences. Nursing includes the making of clinical judgments concerning the observation, care, and counsel of persons requiring nursing care; the administration of medicines and treatments prescribed by the physician or dentist; the participation in activities for the promotion of health and the prevention of illness in others.

Preparation for nursing practice is obtained through an organized program of study approved by a governmental or other competent authority in the alien's country. High school graduation or its equivalent is a prerequisite. The program of study includes theory and practice in the following clinical areas: Obstetrics, surgery, pediatrics, psychiatry, medicine. Evidence of successful completion of the foregoing program of study is required for performance in this field.

PHARMACY

The compounding of prescriptions written by physicians, dentists, and other authorized medical practitioners; and the bulk selection, compounding, dispensing, and preservation of drugs and medicines.

PHYSICAL THERAPY

The treatment of patients with disabilities, disorders, and injuries to relieve pain, develop or restore function, and maintain performance, using physical means, such as exercise, massage, heat, water, light, and electricity, as prescribed by a medical doctor.

PHYSICS

Research into phases of physical phenomena, developing theories and laws on basis of observation and experiments, and devising methods to apply laws and theories of physics to solve problems in such fields as science, engineering, medicine, and production.

Group III: (a) Any person of any religious denomination whose regular profession or occupation is to conduct religious services, which he is authorized by his denomination to perform, and who is seeking admission to the United States in order to engage principally in such work.

(b) Any person of any religious denomination having a religious commitment, such as a Monk, Nun, Brother, Missionary and others, who is seeking admission to the United States to perform the duties required of him by virtue of such commitment.

(c) Any other person seeking admission to the United States to perform duties related to the nonprofit operation of a religious organization (1) if the duties which he will perform involve special skills, training and experience which the alien possesses and which are related to the religious objectives of the organization and (2) if he intends to be engaged principally (more than 50 percent of his working time) in such duties. Examples of persons coming within this subgroup are cantors and translators of religious tracts or texts who have the special capability of conveying through the translation the spiritual message to which such tracts or texts are directed and who will be engaged in such endeavors.

An operation may be considered nonprofit for purposes of Group III if the receipts from the operation will be used exclusively in furtherance of the philanthropic or religious purposes of the organization.

SCHEDULE B

OCCUPATIONAL TITLES

Bakers' Helpers.
Bartenders.
Bookkeepers II.
Bus Boys.
Carpenters' Helpers.
Charwomen and Cleaners.
Clerks, Hotel.
Clerks and Checkers, Grocery Store.
Cook's Helpers.
Domestic Day Workers.
Electric Truck Operators.
Elevator Operators.
Fishermen and Oystermen.
Floor Man, Floor Boy and Floor Girl.
Groundskeepers.
Housemen and Yardmen.
Janitors.
Kitchen Workers and Helpers.
Laborers, Farm.
Laborers, Mine.
Laborers, Common.
Library Assistants.
Loopers and Toppers, Textile.
Maids, Hotel.
Material Handlers.
Packers, Markers, Bottlers, and related.
Painters' Helpers.
Routeman Helpers.
Sailors and Deck Hands.
Sewing Machine Operators and Hand-Stitchers.
Street Railway and Bus Conductors.
Truck Driver's Helpers.
Ushers, Recreation and Amusement.
Warehousemen.
Welder's Helpers.

OCCUPATIONAL DEFINITIONS

Bakers' Helpers

Perform routine tasks to assist bakers in the production of baked goods. Involves such activities as greasing pans, moving and distributing ingredients and supplies, and weighing and measuring ingredients according to instructions.

Bartenders

Prepare, mix, and dispense alcoholic beverages for consumption by bar customers. Also compute and collect charges for drinks.

Bookkeepers II

Keep records of one facet of an establishment's financial transactions. Responsible for maintaining one set of books, and specialize in such areas as accounts-payable, accounts-receivable, or interest-accrued.

Busboys

Facilitate food service in an eating place by performing such tasks as removing dirty dishes, replenishing linen and silver supplies, serving water and butter to patrons, and cleaning and polishing equipment.

Carpenters' Helpers

Perform routine tasks to assist carpenters in building wooden structures. Involves such activities as conveying tools and mate-

rials about work site, sawing lumber to specified size, holding lumber for nailing, and oiling and cleaning tools and equipment.

Charwomen and Cleaners

Keep premises of commercial establishments, office buildings, or apartment houses in clean and orderly condition by performing such tasks as mopping and sweeping floors, dusting and polishing furniture and fixtures, and vacuuming rugs. Work according to set routines.

Clerks, Hotel

Perform a variety of routine tasks to accommodate hotel guests. Involves such activities as registering guests, dispensing keys, distributing mail, collecting payments, and adjusting complaints.

Clerks and Checkers, Grocery Stores

Itemize, total, and receive payment for purchases in grocery stores, usually using cash register. Often assist customer in locating items, stock shelves, and keep stock-control and sales-transaction records.

Cooks' Helpers

Perform a variety of routine tasks to assist workers engaged in preparing food. Involves such activities as cleaning and cutting food, weighing and measuring ingredients, carrying and distributing equipment about work area, and cleaning equipment.

Domestic Day Workers

Perform a variety of routine domestic duties in a household according to employer's instructions. Involves such activities as cleaning and dusting, making beds, and washing and ironing clothing. Usually work on a day-to-day contract basis.

Electric Truck Operators

Drive gasoline or electric-powered industrial trucks or tractors equipped with forklift, elevating platform, or trailer hitch to move and stack equipment and materials in a warehouse, storage yard, or factory.

Elevator Operators

Operate elevators to transport passengers and freight between building floors.

Fishermen and Oystermen

Hunt, catch, and/or trap fish, using such equipment as lines, nets, and pots; work shellfish beds and harvest shellfish.

Floor Men, Floor Boy and Floor Girl

Perform a variety of routine tasks in support of other workers in and around such work sites as factory floors and service areas, frequently at the beck and call of others. Involves such tasks as cleaning floors, materials, and equipment; distributing materials and tools to workers; running errands; delivering messages; emptying containers; and removing materials from work area to storage or shipping areas.

Groundskeepers

Maintain grounds of industrial, commercial, or public property in good condition. Involves such tasks as cutting lawns, trimming hedges, pruning trees, repairing fences, planting flowers, and shoveling snow.

Housemen and Yardmen

1. Perform routine tasks to keep hotel premises neat and clean. Involves such tasks as cleaning rugs; washing walls, ceilings, and windows, moving furniture, mopping and waxing floors, and polishing metalwork.

2. Maintain the grounds of private residences in good order. Typical tasks are mowing and watering lawns, planting flowers and shrubs, and repairing and painting fences. Work on instructions of private employer.

Janitors

Keep hotel, office building, apartment house, or similar building in clean and orderly condition, and tend furnaces and boilers to provide heat and hot water. Typical tasks are sweeping and mopping floors, emptying trash containers, and doing minor painting and plumbing repairs. Often maintain residence at place of work.

Kitchen Workers and Helpers

Perform routine tasks in kitchen of restaurant. Primary responsibility is to maintain work areas and equipment in a clean and orderly fashion. Involves such tasks as mopping floors, removing trash, washing pots and pans, transferring supplies and equipment, and washing and peeling vegetables.

Laborers, Farm

Plant, cultivate, and harvest farm products, following instructions of supervisors, often working as members of a team. Typical tasks are watering and feeding livestock, picking fruit and vegetables, and cleaning storage areas and equipment.

Laborers, Mine

Perform routine tasks in underground or surface mine, pit, or quarry, or at tipple, mill or preparation plant. Involves such tasks as cleaning work areas, shoveling coal onto conveyors, pushing mine cars from working face to haulage road, and loading or sorting material onto wheelbarrow.

Laborers, Common

Perform routine tasks in an industrial construction or manufacturing environment. Typical tasks are loading and moving equipment and supplies, cleaning work areas, and distributing tools. Work upon instructions according to set routine.

Library Assistants

Keep library records; sort and shelve books; issue and receive such library materials as books, films, and phonograph records; and perform a variety of routine clerical tasks to relieve librarians of detail work. Answer routine inquiries and refer matters requiring professional assistance to librarians.

Loopers and Toppers, Textile

1. Tend machines that shear nap, loose threads, and knots from cloth surfaces to give uniform finish and texture.

2. Operate looping machines to close openings in toe of seamless hoses or join knitted garment parts.

3. Loop stitches or ribbed garment (parts on points of transfer bar to facilitate transfer of garment) parts to needles of knitting machine.

Maids, Hotel

Clean hotel rooms and halls; sweep and mop floors, dust furniture, empty wastebaskets, make beds.

Material Handlers

Load, unload, and convey materials within or near plant, yard, or worksite, under specific instructions.

Packers, Markers, Bottlers, and Related

Pack products into containers, such as cartons or crates; mark identifying information on articles; insure filled bottles are properly sealed and marked; often working with team on or at end of assembly line.

Painters' Helpers

Assist painters in preparing and applying protective and decorative coats of paint to surfaces. Typical tasks are arranging and assembling scaffolding, preparing surfaces for painting, and cleaning equipment and work areas.

Routemen Helpers

Aid routemen in providing sales, services, or deliveries of goods to customers over an established route. Involves such tasks as loading and unloading trucks, carrying merchandise to and from trucks, and collecting payments.

Sailors and Deck Hands

Stand deck watches and perform a variety of tasks to preserve painted surfaces of ship, and maintain lines, running gear, and cargo handling gear in safe operating condition. Involves such tasks as mopping decks, chipping rust, painting chipped areas, and splicing rope.

Sewing-Machine Operators and Hand-Stitchers

1. Operate single- or multiple-needle sewing machines to join parts in the manufacture of such products as awnings, carpets, and gloves. Specialize in one type of sewing machine limited to joining operations.

2. Join and reenforce parts of such articles as garments, and curtains, sew buttonholes and attach fasteners to articles, or sew decorative trimmings to articles, using needle and thread.

Street Railway and Bus Conductors

Collect fares or tickets from passengers, issue transfers, open and close doors, announce stops, answer questions, and signal operator to start or stop.

Truck Drivers' Helpers

Assist truck drivers by loading and unloading vehicles, securing items in position on truck to prevent damage, delivering and stacking merchandise on customers premises and collecting payments or obtaining receipt.

Ushers (Recreation and Amusement)

Assists patrons at entertainment events in finding seats, searching for lost articles, and locating facilities.

Warehousemen

Receive, store, ship, and distribute materials, tools, equipment, and products within establishments as directed by others.

Welders' Helpers

Assist workers in welding, brazing, and flame and arc cutting activities by performing such routine tasks as moving equipment and supplies; cleaning work area, equipment, and materials; connecting hoses; starting engines; and setting workpiece in place.

(79 Stat. 911)

Signed at Washington, D.C., this 20th day of December 1966.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 66-13819; Filed, Dec. 22, 1966; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Great Swamp National Wildlife Refuge, N.J.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

NEW JERSEY

GREAT SWAMP NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated routes unless prohibited by posting, for the purpose of nature study, photography, hiking, and sight-seeing, during daylight hours. Pets are allowed if on a leash not over 10 feet in length.

The refuge area, comprising 4,008 acres, is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1967.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 12, 1966.

[F.R. Doc. 66-13784; Filed, Dec. 22, 1966; 8:47 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on the date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated travel routes, for the purpose of nature study, photography, hiking, and sight-seeing, during daylight hours. Pets are permitted if on a leash not over 10 feet in length. Fishing and hunting may be permitted on parts of the refuge under special regulations.

The refuge area, comprising 10,783 acres, is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1967.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 12, 1966.

[F.R. Doc. 66-13785; Filed, Dec. 22, 1966; 8:47 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Montezuma National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated travel routes, for the purpose of nature study, photography, hiking, and sight-seeing, during daylight hours. Pets are allowed if on a leash not over 10 feet in length. Outdoor lunches are permitted in designated areas where lunch facilities are provided. Fishing and hunting under special regulations may be permitted on parts of the refuge.

The refuge area, comprising 6,041 acres, is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1967.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 12, 1966.

[F.R. Doc. 66-13786; Filed, Dec. 22, 1966; 8:47 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Missisquoi National Wildlife Refuge, Vt.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

VERMONT

MISSISQUOI NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated travel routes for the purpose of nature study, photography, hiking, and sight-seeing, during daylight hours. Pets are permitted on a leash not over 10 feet in length. Lunches are permitted in designated areas where lunch facilities are provided. Fishing and hunting, the launching of boats and parking of boat trailers may be permitted in designated areas.

The refuge area, comprising 4,680 acres, is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this Special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1967.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 12, 1966.

[F.R. Doc. 66-13787; Filed, Dec. 22, 1966; 8:47 a.m.]

PART 33—SPORT FISHING

Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations: sport fishing, for individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Iroquois National Wildlife Refuge, Basom, N.Y., is permitted on the areas designated by signs as open to fishing. These open areas, comprising 26 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) The use of boats with motors is not permitted.

(2) The use of boats after October 15th is not permitted.

The provisions of this special regulation supplement the regulations governing fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1967.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 12, 1966.

[F.R. Doc. 66-13783; Filed, Dec. 22, 1966; 8:47 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 14—LEGAL SERVICES, GENERAL COUNSEL

Miscellaneous Amendments

1. In § 14.627, paragraph (b) is amended to read as follows:

RECOGNITION OF ORGANIZATIONS, ACCREDITED REPRESENTATIVES, ATTORNEYS, AGENTS; RULES OF PRACTICE AND INFORMATION CONCERNING FEES, 38 U.S.C. CH. 59

§ 14.627 Accredited representatives.

* * * * * *

(b) Letters of recognition or card issued by the General Counsel (VA Form 2–3192, Service Organization Representative Identification Card) will constitute authorization for the recognition of accredited representatives designated therein, in all offices (including hospitals and domiciliaries) of the Veterans Administration. Record will be maintained in the Office of the General Counsel of all recognitions issued.

* * * * *

2. In § 14.628, paragraph (a) is amended and paragraph (e) is revoked to read as follows:

§ 14.628 Powers of attorney.

(a) Before an organization may be recognized in an individual claim, there must be filed a power of attorney (VA Form 23–22) duly executed by the claimant specifically conferring upon the organization the authority to represent the claimant in the presentation of his claim and to receive information in connection therewith, which power of attorney shall be presented to the Veterans Administration office concerned to be filed in the veteran's folder. The claimant may also authorize release to a local organization of information necessary to develop his claim and as to action thereon. The power of attorney must be signed by the claimant, or by the guardian, if any, or, in case of an incompetent without guardian, by wife, parent, or other near relative (if interests are not adverse), or Director of hospital in which veteran is maintained. An organization which has filed a power of attorney in the case of a veteran shall, in the event of death of the veteran, and if the organization so desires, be recognized for a reasonable period thereafter to enable the new claimant or claimants to execute a new power of attorney or to state that none is desired.

* * * * *

(e) [Revoked]

3. In § 14.629, paragraphs (a) and (b) are amended and paragraphs (c) and (d) are revoked to read as follows:

§ 14.629 Recognition of attorneys and agents.

(a) Claim agents will be granted recognition and certified by the Office of the General Counsel upon satisfactory evidence of qualification, including good reputation and knowledge of applicable law and procedure. Upon presentation to the General Counsel of a properly executed application on the form prescribed by the Administrator, Application for Recognition as Agent, any competent person of good moral character and of good repute who is a citizen of the United States, or who has declared his intention to become such a citizen, and who is not engaged in the practice of law may be recognized as an agent to represent claimants before the Veterans Administration, if his recognition is not precluded by any statutory or regulatory provision and he has never been convicted, whether on trial or plea, of a serious penal offense, or of any violation of any penal provisions respecting fees. Applicants for recognition as agents may be required to prove their fitness to render substantial service by undergoing a written examination testing their knowledge of the laws administered by the Veterans Administration and regulations promulgated thereunder.

(b) (1) The submission of a written declaration by a person stating that he is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia and that he is authorized to represent a particular claimant in whose behalf he acts will, in the absence of contrary evidence, entitle him to represent the claimant before this agency and to have access to information in Veterans Administration files which would be available to the claimant in accord with §§ 1.503 and 1.504 of this chapter.

(2) Such attorney shall not be required to submit a power of attorney from the claimant. In cases where a prior unrevoked power of attorney (including VA Form 23–22 or 2–22a) or declaration of representation by another person is of record, the attorney filing the declaration shall be promptly requested to secure and submit a statement, signed by the claimant, showing the nature and extent of the new attorney's representative capacity and stating whether the existing power of attorney or declaration of representation is to remain in effect or is to be revoked. A copy of this request will be sent to the representative of record. Pending receipt of such statement, the prior power of attorney or declaration of representation of record will remain in effect, but the attorney, by reason of having filed the declaration of representation, shall also be furnished notice of any action affecting the rights of the claimant and shall have access to information in accordance with subparagraph (1) of this paragraph. Situations may arise when an individual is making two or more different claims and has a different representative for each. However, not more than one recognized organization, attorney, or agent will be recognized at any one time in the prosecution of a claim for one specific benefit.

(3) This paragraph applies only to attorneys, and it has no application to accredited representatives of recognized organizations (§ 14.627); to claim agents recognized by the Veterans Administration (paragraph (a) of this section); or to persons recognized for the purpose of a particular claim (§ 14.639).

(4) Any question as to the current qualification of a person under this paragraph shall be referred to the appropriate Chief Attorney for initial determination. Said determination may be appealed to the General Counsel by any interested party.

(c) [Revoked]

(d) [Revoked]

4. Section 14.630 is revised to read as follows:

§ 14.630 Agents affiliated with organizations.

The policy of the Veterans Administration precludes the recognition as an agent, of any person who is an officer or employee, appointive or elective, of any veteran, welfare, or State, county, or municipal organization engaged in assisting claimants in presenting claims before the Veterans Administration without fee or emolument, except that any person holding such office whose duties do not include actual assistance in the presentation of claims before the Veterans Administration may be recognized but will be precluded while holding such office from receiving a fee for services rendered as an agent in the presentation and prosecution of claims for benefits administered by the Veterans Administration. Furthermore, it is contrary to the policy to permit an agent to transact claims business from or at an office from or at which a veteran or welfare organization, or an agency of a State or other political subdivision, carries on its work incident to assisting claimants in presenting claims before the Veterans Administration or to use the stationery of such organization or agency in transacting his claims business.

5. Section 14.631 is added to read as follows:

§ 14.631 Single and plural representation.

Stuations may arise when an individual is making two or more different claims and has a different representative for each. However, not more than one recognized organization, attorney or agent will be recognized at any one time in the prosecution of a claim for one specific benefit.

6. Section 14.634 is revoked.

§ 14.634 Recognition of attorneys by field stations. [Revoked]

7. Sections 14.640 and 14.644 are revised to read as follows:

§ 14.640 Power of attorney.

Only a duly executed power of attorney confers upon an agent the right to prepare, present, and prosecute a claim before the Veterans Administration. Upon receipt of a duly executed power of attorney, the agent named therein will be informed of the status of the claim and will be recognized as the sole agent for the preparation, presentation, and prosecution of the claim covered thereby so long as the power of attorney is effective.

§ 14.644 Revocation of power of attorney and discharge of attorney or agent.

The claimant shall have the privilege of exercising his right at any stage of the claim to revoke a power of attorney or discharge his attorney or agent but such revocation or discharge shall not be effective as to Veterans Administration until notice of such action shall be received by the Veterans Administration.

8. Section 14.647 is revoked.

§ 14.647 Transfer, assignment, or substitution of attorneyship. [Revoked]

9. Section 14.649 is revised to read as follows:

§ 14.649 Advertising and solicitation of claims.

Every agent shall submit to the General Counsel, in duplicate, copies of all proposed forms and letterheads intended

for use in connection with business before the Veterans Administration, and the General Counsel will notify such agent of his approval or disapproval. The use by an attorney or agent of the characters "U.S." or the words "United States" as a part of his title or the title of his business shall not be permitted. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not of itself improper, but solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional and will render an attorney or agent liable to suspension, disbarment, or revocation.

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective date of approval.

By direction of the Administrator.

Approved: December 16, 1966.

[SEAL] CYRIL F. BRICKFIELD,
Deputy Administrator.

[F.R. Doc. 66-13788; Filed, Dec. 22, 1966; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Procurement of Public Utility Services

This regulation establishes a new subpart in the FPR prescribing policies and procedures for economical and efficient procurement of public utility services by executive agencies.

Part 1-4 is amended by adding a new Subpart 1-4.4, reading as follows:

Subpart 1-4.4—Public Utilities

Sec.
1-4.400 Scope of subpart.
1-4.401 Definition.
1-4.402 Applicability.
1-4.403 Utility bills rendered to executive agencies.
1-4.404 GSA assistance.
1-4.405 Submission of information.
1-4.406 Procurement policy and regulations.
1-4.406-1 Policy.
1-4.406-2 Agency supply arrangements.
1-4.407 GSA areawide contracts.
1-4.408 GSA long-term contracts.
1-4.409 Consolidated purchase, joint use, or cross-service.
1-4.410 Independent procurement by executive agencies.
1-4.410-1 General.
1-4.410-2 Documentation of procurements from regulated utility suppliers.
1-4.410-3 Documentation of procurements from unregulated utility suppliers..
1-4.410-4 Negotiations with utility suppliers.
1-4.410-5 Uniform clauses for utility service contracts.
1-4.410-6 Postreview or periodic reporting.
1-4.411 Prior review of certain proposed procurements.
1-4.411-1 General.
1-4.411-2 Prior review by GSA.
1-4.411-3 Alternative prior review by the procuring agency.
1-4.411-4 Guidelines for prior review.

AUTHORITY: The provisions of this Subpart 1-4.4 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 1-4.4—Public Utilities

§ 1-4.400 Scope of subpart.

This subpart prescribes policies and procedures for economical and efficient procurement of public utility services by executive agencies.

§ 1-4.401 Definition.

As used in this Subpart 1-4.4, "utility services" include all utility services (except telecommunications services), such as electricity, gas, steam, water, and sewerage, including facilities on both sides of the delivery point for the supply of such services.

§ 1-4.402 Applicability.

(a) The provisions of this Subpart 1-4.4 apply to the procurement of utility services by executive agencies within the United States and its possessions and the Commonwealth of Puerto Rico.

(b) The Statement of Areas of Understanding between the Department of Defense and General Services Administration in the Matter of Procurement of Utility Services, as amended (15 F.R. 8227, 22 F.R. 871), shall govern the procurement of utility services by the Department of Defense.

(c) The provisions of this Subpart 1-4.4 do not apply to: (1) Utility services produced, distributed, or sold by a Federal agency (other than consolidated purchase, joint use, or cross-service by one agency for another agency); or (2) utility services (other than those required for administrative purposes) obtained by purchase, exchange, or otherwise by Federal power or water marketing agencies as a direct incident to such agency's marketing or distribution program.

(d) GSA will, upon request, furnish the services provided for in this Subpart 1-4.4 to any other Federal agency, mixed-ownership Government corporation, the District of Columbia, the Senate, the House of Representatives, or the Architect of the Capitol and any activity under his direction.

§ 1-4.403 Utility bills rendered to executive agencies.

Executive agencies shall notify the utility suppliers with which they do business to provide GSA from time to time, upon the request of GSA to the supplier, with duplicate copies of bills rendered to the individual agencies for utility services. The particular billing period will be mutually agreed upon between GSA and the supplier.

§ 1-4.404 GSA assistance.

(a) The Congress and the President, in the declaration of policy in the Federal Property and Administrative Services Act of 1949, stated an intent to provide for the Government an economical and efficient system for, among other things, the procurement of nonpersonal services, including contracting for and management of public utility services (40 U.S.C. 471). In order to implement this policy, GSA has established an experienced staff of utilities technical specialists and engineers, available to all agencies, to provide the necessary capabilities to facilitate more economical and efficient procurement and management of public utility services by Federal agencies.

(b) Agencies not having personnel technically qualified to deal with specialized utilities problems and requiring GSA technical assistance, and other agencies having technically qualified personnel but desiring GSA consulting assistance, should obtain assistance from the Transportation and Communications Service of GSA, in Washington, D.C., at the address listed below in § 1-4.405, or in the nearest of the 10 GSA regional offices through the TCS Regional Director.

§ 1-4.405 Submission of information.

All information required by GSA under this Subpart 1-4.4, except where otherwise specified, shall be addressed to the General Services Administration, Transportation and Communications Service, Public Utilities Division, Washington, D.C. 20405.

§ 1-4.406 Procurement policy and regulations.

§ 1-4.406-1 Policy.

It shall be the policy of executive agencies to obtain required utility services from sources of supply which are most advantageous to the Government in terms of economy, efficiency, or service, after investigating all appropriate sources. The supplier of a utility service is usually the sole source thereof. When more than one source of supply is available, the service may also be procured by negotation since formal advertising is usually not feasible and practicable (see §§ 1-3.101 (a), (d); 1-3.202; 1-3.203; 1-3.210; and Subpart 1-3.3 of this chapter).

§ 1-4.406-2 Agency supply arrangements.

In implementing the policy stated in § 1-4.406-1, use shall be made by agencies of: (a) GSA areawide contracts (§ 1-4.407); (b) GSA long-term contracts (§ 1-4.408); and (c) consolidated purchase, joint use, or cross-service by one agency for another agency (§ 1-4.409).

§ 1-4.407 GSA areawide contracts.

(a) GSA enters into areawide contracts with various utility suppliers for the furnishing of utility services to Federal agencies located within the service areas of such suppliers. GSA areawide contracts provide that the utility supplier, upon execution of a Government order in the form of an authorization prescribed by the contract, will furnish, without further negotiation, the services involved in accordance with such of the supplier's rate schedules as are applicable to such services and subject to all the provisions of the areawide contract.

(b) Unless it is determined that more advantageous competing services are

available, each executive agency in the area covered by a GSA areawide contract shall procure utility services thereunder: *Provided, however,* That when it is in the best interest of the Government, an agency may negotiate special rates or special services under an areawide contract or under a separate contract.

(c) When procuring utility services under a GSA areawide contract, each executive agency shall furnish or arrange to furnish to GSA an executive counterpart or conformed copy of the order authorizing service connection, disconnection, or change, as set forth in the particular contract.

(d) Upon request, GSA will furnish to Federal agencies a list of GSA areawide public utility contracts, showing in each case the kind of utility service, the serving utility, and the area served. GSA also will make available to Federal agencies, upon request, a copy of any areawide contract. Each contract includes the specimen order form authorizing service connection, disconnection, or change.

§ 1–4.408 GSA long-term contracts.

Executive agencies ordinarily cannot obligate the Government for utility services beyond the current fiscal year. Therefore, affirmative action ordinarily is required in order to renew a contract beyond the current fiscal year. GSA, however, has special statutory authority to enter into long-term contracts for utility services for periods not exceeding 10 years (40 U.S.C. 481). GSA, either on its own initiative or upon request by an agency, will negotiate or assist in the negotiation of a long-term contract for the use and benefit of the agency, if a long-term contract is justified by one or more of the following circumstances:

(a) Where lower rates, larger discounts, or more favorable conditions of service can be obtained.

(b) Where a proposed connection charge, termination liability, or any other facilities charge to be paid by the Government would be eliminated or reduced.

(c) Where the utility supplier refuses to render the desired service except under a long-term contract.

§ 1–4.409 Consolidated purchase, joint use, or cross-service.

Consolidated purchase, joint use, or cross-service by one agency for another agency shall be used to procure utility services or facilities when advantageous to the Government in terms of economy, efficiency, or service. (Such methods of procurement do not include cases where utility services are furnished without charge by another Government agency as an incident to space procurement.) A memorandum of understanding, specifying the services or facilities to be supplied and the estimated costs and other conditions under which they will be procured, shall be used in cases of consolidated purchase, joint use, or cross-service. A copy of each memorandum shall be retained in the procuring agency's file until the end of the retention period specified in § 1–4.410–6. These memorandums shall be subject to such on-site postreview or periodic reporting as may be required by GSA.

§ 1–4.410 Independent procurement by executive agencies.

§ 1–4.410–1 General.

(a) In the absence of available GSA areawide contracts (§ 1–4.407), GSA long-term contracts (§ 1–4.408), or consolidated purchase, joint use, or cross-service (§ 1–4.409), executive agencies may procure utility services and facilities, within the scope of their authority, by independent procurement for their own accounts, subject to the policy provisions of § 1–4.406, the procedural provisions of § 1–4.410, and the review provisions of § 1–4.411.

(b) Such procurement may be effected by formal bilateral written contract or by simple procurement documents, such as Government purchase orders or other written requests for service. A standard utility supplier application form or similar document shall not be used, and if a Government purchase order or other written request for service will not be accepted by the utility supplier, the agency shall negotiate a formal bilateral written contract.

§ 1–4.410–2 Documentation of procurements from regulated utility suppliers.

Utility services may be procured by executive agencies by a simple procurement document, such as one of those mentioned in § 1–4.410–1, rather than by a formal bilateral written contract, when the utility supplier's rates are fixed or adjusted by a Federal, State, or other public regulatory body, except that a formal bilateral written contract shall be used under one or more of the following circumstances:

(a) The utility service is available from more than one source of supply, in which case such service shall be procured as provided in § 1–4.406–1.

(b) The supplier requires the execution of a contract.

(c) The annual cost of the service to be procured is estimated by the using agency, at the time of initiation of the service or annual review of the expenditure, to be over $10,000.

(d) A proposed connection charge for connecting the using agency's facilities to the supplier's facilities, a termination liability for discontinuance of service or removal of facilities, the purchase cost or cumulative leasing cost of special facilities, or any other facilities charge to be paid by the agency (whether or not refundable) is estimated to exceed a total of $2,500.

(e) The executive agency concludes that a formal bilateral written contract is in the best interest of the Government.

§ 1–4.410–3 Documentation of procurements from unregulated utility suppliers.

Utility services shall be procured by executive agencies by a formal bilateral written contract, rather than by a simple procurement document, such as one of those mentioned in § 1–4.410–1, when (1) the utility supplier's rates are not fixed or adjusted by a Federal, State, or other public regulatory body, and (2) one or more of the following circumstances exists:

(a) The utility service is available from more than one source of supply, in which case such service shall be procured as provided in § 1–4.406–1.

(b) The supplier requires the execution of a contract.

(c) The annual cost of the service to be procured is estimated by the using agency, at the time of initiation of the service or annual review of the expenditure, to be over $2,500.

(d) A proposed connection charge for connecting the using agency's facilities to the supplier's facilities, a termination liability for discontinuance of service or removal of facilities, the purchase cost or cumulative leasing cost of special facilities, or any other facilities charge to be paid by the agency (whether or not refundable) is estimated to exceed a total of $1,000.

(e) The executive agency concludes that a formal bilateral written contract is in the best interest of the Government.

§ 1–4.410–4 Negotiations with utility suppliers.

(a) In the event that a utility supplier declines, after appropriate initial request, to execute a formal bilateral written contract when required by this Subpart 1–4.4, the contracting officer ordinarily shall continue negotiations in an endeavor to obtain the supplier's consent to such a contract. However, after a definite and final refusal by the supplier to execute a contract, the agency may procure services by use of a Government purchase order or other written request for service. The agency shall immediately report the supplier's refusal to execute a contract to GSA, forwarding full documentation, including a copy of the record of negotiations. A full record of the negotiations with the supplier, including the reasons for the supplier's position, shall be retained in the procuring agency's file.

(b) Representatives of GSA are available to provide assistance to executive agencies at any stage of negotiations of a proposed procurement in order to facilitate the consummation of a mutually satisfactory contract between the agency and the supplier.

§ 1–4.410–5 Uniform clauses for utility service contracts.

(a) The following uniform clauses, as prescribed in the current pertinent FPR sections or set forth verbatim below, shall be mandatory for utility service contracts. The clauses shall be inserted in all such contracts, expressly or through incorporation by reference.

(1) *Definitions.* Section 1–7.101–1.

(2) *Examination of records.* Section 1–7.101–10.

(3) *Equal opportunity.* Section 1–12.803–2, as revised.

(4) *Officials not to benefit.* Section 1–7.101–19.

(5) *Covenant against contingent fees.* Section 1–1.503.

(6) *Convict labor.* Section 1–12.203.

(7) *Contract Work Hours Standards Act—overtime compensation.* Section 1–12.303.

(8) *Disputes.* Section 1–7.101–12.

(9) *Certificate of independent price determination.* Section 1–1.317.

(10) *Conflicts.*

CONFLICTS

To the extent of any inconsistency between the provisions of this contract, and any schedule, rider, or exhibit incorporated in this contract by reference or otherwise, or any of the Contractor's rules and regulations, the provisions of this contract shall control.

(b) The following uniform clauses are optional for utility service contracts, but should be used when applicable and advisable:

(1) *Gratuities.* Armed Services Procurement Regulation (ASPR) Par. 7–104.16. (This clause should be used when the contract is for utility services to be used wholly or partly by one or more installations of the armed services.)

(2) *Parties of interest.*

PARTIES OF INTEREST

This contract shall be binding upon and inure to the benefit of the successors, legal representatives, and assignees of the respective parties hereto.

(c) GSA has included the uniform clauses listed in paragraphs (a) and (b) of this section in its GSA Form 1685, Supplemental Provisions (Utility Service Contract). Upon request, GSA will furnish a copy of this form to any agency for its guidance, use, or reproduction as an agency form.

§ 1–4.410–6 Postreview or periodic reporting.

Under governing regulations (41 CFR 101–11.404–2, Schedule 3, Procurement and Supply Records), a copy of each executed utility service procurement document and supporting records is required to be retained in the procuring agency's file for a period of 6 years after completion of service. During the service period and the ensuing 6 years, all such documents and records shall be subject to such on-site postreview or periodic reporting as may be required by GSA. (See also § 1–4.411 on prior review of certain proposed procurements by executive agencies.)

§ 1–4.411 Prior review of certain proposed procurements.

§ 1–4.411–1 General.

(a) Proposed utility procurements by executive agencies, including proposed contracts, proposed authorizations under applicable GSA areawide contracts, and proposed memorandums of understanding for consolidated purchase, joint use, or cross-service by one agency for another agency, shall be subject to prior review by GSA or, in the alternative, by the procuring agency as described in § 1–4.411–3 below, before execution thereof, if either of the following circumstances applies:

(1) The annual cost of the service to be procured is estimated by the using agency, at the time of initiation of the service or annual review of the expenditure, to exceed $50,000; or

(2) A proposed connection charge, termination liability, or any other facilities charge to be paid by the agency (whether or not refundable) is estimated to exceed a total of $5,000.

(b) Proposed utility procurements specified in paragraph (a) of this section shall be referred to GSA for prior review unless the procuring agency has an established program and personnel technically qualified to deal with specialized utilities problems, as described in § 1–4.411–3 below. If prior review is handled by GSA, it will follow the provisions set forth in § 1–4.411–2. If, however, prior review is handled by the procuring agency, it shall follow the provisions set forth in § 1–4.411–3. In either event, guidelines to be used in such prior reviews are set forth in § 1–4.411–4.

§ 1–4.411–2 Prior review by GSA.

(a) Where a procuring agency refers the proposed procurements specified in § 1–4.411–1(a) for prior review by GSA, the guidelines set forth in § 1–4.411–4 will be observed by GSA.

(b) Where a proposed procurement is referred by a procuring agency for prior review by GSA, the agency is authorized to complete the negotiation and execution thereof if no comments are made by GSA to the agency within 20 regular working days (or within such lesser period as may be agreed upon where time is a critical factor) from the date the proposal, documents, and data relating to the proposed procurement are received by GSA for prior review. GSA will acknowledge the date of receipt of the referral from the agency.

§ 1–4.411–3 Alternative prior review by the procuring agency.

(a) Where a procuring agency, as of the effective date of the regulations in this subpart, has an established program and personnel technically qualified to deal with specialized utilities problems, adequate to accomplish its own prior review of the proposed utility procurements specified above in § 1–4.411–1(a), the agency shall notify the Administrator of General Services if it desires to continue its general responsibility for such prior review. This notification to the Administrator shall give the date, cite the implementing document, and summarize the review procedures relating to the agency's current program of prior review of proposed utility procurements. Continuation by the agency of its established general responsibility for prior review shall not be deemed to preclude referral of any specific case for prior review by GSA, whenever desired by the agency.

(b) Any agency having an established program as described in paragraph (a) of this section and continuing its established general responsibility for prior review shall provide by agency procedure that its review shall be exercised at technical and management levels sufficiently high to assure uniform application of the guidelines set forth in § 1–4.411–4. However, proposed procurement documents requiring prior review may be prepared for signature by any agency official acting within the scope of his delegated authority.

(c) A copy of each procurement document executed pursuant to § 1–4.411–1(a) shall be retained in the procuring agency's file until the end of the retention period specified in § 1–4.410–6. In addition, if the procurement document is an authorization under an applicable GSA areawide contract, the agency shall furnish or arrange to furnish an executed counterpart or conformed copy to GSA pursuant to § 1–4.407(c). All procurement documents executed pursuant to § 1–4.411–1(a) shall be subject to such on-site postreview or periodic reporting as may be required by GSA.

§ 1–4.411–4 Guidelines for prior review.

Whether the prior review of the proposed procurements specified in § 1–4.411–1(a) is handled by GSA in accordance with § 1–4.411–2 or by the procuring agency in accordance with § 1–4.411–3, the guidelines set forth below in this § 1–4.411–4 shall be observed:

(a) Complete information relating to each proposed procurement shall be assembled by the procuring agency sufficiently in advance to permit full review. Such information shall include a technical description or specifications of the type and quality of the required services and a copy of any service proposal or proposed contract. If not included in the foregoing, a copy of the following additional documents and data shall be furnished wherever applicable:

(1) Copies of all applicable rate schedules, published or unpublished, currently used by available utility suppliers in billings to customers having service requirements similar to those of the procuring agency.

(2) The following data concerning quantity, quality, and time schedule of the required services: (i) Statement as to date initial service is required. (ii) Technical description or specifications of the type and quality of the required services. (iii) Data on estimated maximum demand, average monthly consumption, and estimated annual cost for the first calendar year of full service. (iv) Known or estimated time schedule for growth to ultimate requirements. (v) Estimated ultimate maximum demand, ultimate average monthly consumption, and estimated annual cost of ultimate required services and facilities.

(3) Identification of all available sources of supply and a statement as to the ability of each source to provide the required services. This should include the location and a description of each available supplief's facilities at the nearest point of service.

(4) The following data concerning proposed facilities and related charges or costs: (i) Proposed refundable or nonrefundable connection charge, termination liability, or other facilities charge to be paid by the Government, if any, together with a description of the proposed supplier facilities and estimated construction costs entering into the determination of the proposed facilities charge. (ii) A statement by the supplier that such proposed facilities charge is not in excess of the charge that other customers would be required to pay for like facilities under similar circumstances. (iii) Description of the proposed Government-owned facilities and estimated construction costs, if any, needed to procure the required services.

(5) Identification of any unusual factors affecting the procurement.

(b) Approval of a proposed procurement specified in § 1-4.411-1(a), after prior review by GSA or the procuring agency, shall be based on written determinations and supporting findings meeting all the following criteria as a minimum in each case:

(1) The proposed supplier is either the sole source of the required service or has been selected after consideration of more than one source of supply as provided in § 1-4.406-1;

(2) The service to be provided is adequate in terms of quantity, quality, and time schedule to meet the procuring agency's needs;

(3) The selected rate schedule is the most advantageous of the rate schedules available to the agency in terms of economy, efficiency, or service;

(4) The proposed facilities charge, if any, is necessary to secure the required service, is based on current cost or pricing data, is reasonable in total amount, and may be certified for payment by the agency; and

(5) The proposed procurement fulfills the requirements of this FPR Subpart 1-4.4.

Effective date. This regulation is effective 90 days from the date of its publication in the FEDERAL REGISTER, but may be observed sooner.

Dated: December 15, 1966.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 66-13793; Filed, Dec. 22, 1966; 8:48 a.m.]

Chapter 2—Federal Aviation Agency

REVISION OF CHAPTER

Chapter 2 of Title 41 of the Code of Federal Regulations is revised to read as set forth below. These regulations are effective December 15, 1966.

Dated: December 15, 1966.

DONALD S. KING,
Director,
Installation and Materiel Service.

PART 2-1—GENERAL

AUTHORITY: The provisions of this Part 2-1 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

Subpart 2-1.1—Agency Procurement Regulation System

§ 2-1.101 Purpose.

The subpart establishes a system of Federal Aviation Agency Procurement Regulations (FAPR) for the codification and publication of policies and procedures for the procurement of services and personal property by the Federal Aviation Agency.

§ 2-1.102 Authority.

Agency requirements are procured under the authority of Federal statutes and implementing administrative regulations. Basic guidelines are provided by the Federal Aviation Act of 1958, the Federal Property and Administrative Services Act of 1949, and the Federal Procurement Regulations (FPR).

§ 2–1.102–1 The Federal Aviation Act of 1958.

(a) The Federal Aviation Act of 1958—which established the Agency—grants the Administrator certain broad authorities to acquire real and personal property and services for Agency use. The Act empowers the Administrator to make appropriate expenditures:

(1) For rent and personal services at the seat of the Government and elsewhere (sec. 303(a)).

(2) For the acquisition (and exchange), operation, and maintenance of passenger automobiles and aircraft (sec. 303(a)).

(3) For the acquisition of real property or interest therein by purchase, condemnation, lease, or other method (sec. 303(c)).

(4) For the construction, improvement, or renovation of laboratories and other test facilities (sec. 303(c)).

(5) For such other property as is necessary in performing his duties (sec. 303(a)).

(6) To make investigations and conduct studies pertaining to aeronautics (sec. 303(a)).

(7) To provide necessary facilities and personnel for the regulation and protection of air traffic (sec. 307(b)).

(8) To acquire, establish, operate, maintain, and improve air navigation facilities (sec. 307(b)).

(9) To undertake or supervise such developmental work and service testing as tends to the creation of improved aircraft, aircraft engines, propellers, and appliances. This includes the right to purchase experimental equipment of these types which seem to offer special advantages to aeronautics (sec. 312(b)).

(10) To contract for the development, modification, testing, and evaluation of systems, procedures, facilities, and devices needed for safe and efficient navigation and traffic control of aviation.

(b) Section 303(c) of the Act empowers the Administrator to sell, lease, or otherwise dispose of property.

§ 2–1.102–2 The Federal Property and Administrative Services Act of 1949.

(a) The Federal Property and Administrative Services Act of 1949, as amended, sets forth procedures "to facilitate the procurement of property and services," and authorizes the Administrator, General Services Administration (GSA), to establish for the executive agencies an economical and efficient system for:

(1) The procurement and supply of personal property and nonpersonal services, including such related functions as contracting, inspection, storage, issue, specifications, property identification and classification, transportation and traffic mangement, establishment of inventory levels, and establishment of forms and procedures.

(2) The utilization of available property.

(3) The disposal of surplus property.

(4) Records management.

(b) Section 201(a) of the Act empowers the Administrator, GSA, to prescribe appropriate policies and methods of procurement of personal property and nonpersonal services. The Federal Procurement Regulations are issued under the authority of the Act. The administrator of FAA has been authorized by the Administrator of GSA to issue such orders and directives deemed necessary to implement the Federal Procurement Regulations. Responsibility within the FAA for the development of such material is vested in the Installation and Materiel Service.

(c) Title III of the Act sets forth the procurement procedure to be followed under the Act. It requires that all purchases and contracts for property and services by executive agencies (e.g., FAA) be made by formal advertising as provided in section 303, unless they come within 1 of the 15 exceptions specified in section 302(c) (see Subpart 1–3.2 of this part for exceptions).

(d) Section 304 of Title III sets forth requirements of negotiated contracts. These provide for:

(1) Inclusion of a contract warranty against contingent fees for soliciting or obtaining the procurement.

(2) Prohibition against the cost-plus-a-percentage-of-cost form of contract.

(3) The applicability of cost-plus-fixed-fee contracts.

(4) Statutory limits on estimated fees payable under such contracts.

(5) The right of the procurement office to inspect the plants and audit the books of prime contractors and subcontractors engaged in cost type contracts, and

(6) Inclusion of a clause in all negotiated contracts permitting the General Accounting Office access to directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors.

§ 2–1.103 Issuance.

§ 2–1.103–1 Relation to Federal Procurement Regulations System.

The Federal Procurement Regulations System is designed to bring together, under this Title 41, Subtitle A of the Code of Federal Regulations, the procurement regulations applicable to all civilian agencies of the Government. Federal Procurement Regulations (FPR) are Chapter 1 of this title. This Chapter 2 is assigned for the procurement regulations of the Federal Aviation Agency (FAA). Chapters 3 through 49 of this title are for use by other agencies. Consequenty, regulations applicable to FAA procurement consist of Chapters 1 and 2 of this Title 41. Material issued in the FAPR is numerically keyed to the corresponding sections of FPR as far as possible. The number system established by § 1–1.007–2 of this title is utilized.

§ 2–1.103–2 Public.

Those parts of FAPR which contain basic and significant policies and procedures considered to be of interest to the general public are published in the daily issue of the FEDERAL REGISTER and, in cumulated form, in the Code of Federal Regulations. The Installation and Materiel Service, is responsible for determining what material shall be published, and for preparing submissions for publication. Copies of FAPR in FEDERAL REGISTER and Code of Federal Regulations form may be purchased by the public, at nominal cost, from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Subpart 2–1.2—Definition of Terms

§ 2–1.204 Head of the agency.

The FPR refers to the "head of the agency" or "agency head" as a level of approval. Agency Order OA P 1100.1, paragraph 802, authorizes the Associate Administrator for Development to act as agency head within the meaning of Title III of the Federal Property and Administrative Services Act of 1949, as amended, except in connection with the Supersonic Transport Development program. Referrals to the Associate Administrator for Development (with the exception of National Airspace System Program Office, Office of Supersonic Transport Development, and Bureau of National Capital Airports) shall be made through the Director, Installation and Materiel Service.

§ 2–1.206 Head of the procuring activity.

The FPR refers to the "head of the procuring activity" as a level of review or approval. "Head of the procuring activity" means:

(a) For the Installation and Material Service, the Director, IMS.

(b) For each region, the Director of the respective region.

(c) For either center, the Director of the respective center.

(d) For the National Airspace System Program Office, the Director, NASPO.

(e) For the Office of Supersonic Transport Development, the Director, SST.

(f) For the Bureau of National Capital Airports, the Director, BNCA.

§ 2–1.250 Chief officer responsible for procurement.

The term "chief officer responsible for procurement" as used in the FPR shall be considered synonymous with the title "head of the procuring activity" (see § 2–1.206).

§ 2–1.251 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.

§ 2–1.252 Supplemental agreement.

"Supplemental agreement" means any contract modification which is accomplished by mutual action of the parties.

§ 2–1.253 Shall.

"Shall" is imperative.

§ 2–1.254 May.

"May" is permissive. However, the words "no person may * * *" means

that no person is required, authorized, or permitted to do the act prescribed.

Subpart 2–1.3—General Policies

§ 2–1.302–3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.

(a) Procurement contracts between the Government and its employees or business organizations substantially owned or controlled by Government employees will not knowingly be entered into, except in those cases in which the needs of the Government cannot reasonably be otherwise supplied. The specific approval of the head of the procuring activity as defined in § 2–1.206 must be obtained for any such contract.

(b) Surplus personal property shall not be sold to persons known to be officers or employees of the Federal Government, except as specifically authorized by the head of the procuring activity as defined in § 2–1.206.

§ 2–1.307–4 Brand name products or equal.

(a) Purchase descriptions which contain references to one or more brand name" product under the guise of com- "or equal" may be used only in accordance with this § 2–1.307–4 and §§ 1–1.307–4 through 1–1.307–9 of this title.

(b) The phrase "or equal" shall not be used to procure a particular "brand name" product under the guise of competitive procurement procedures to the exclusion of similar products of at least equal quality and performance that meet the actual needs. Use of a purchase description with the phrase "or equal" is not intended as a device to grant an advantage to particular manufacturers by favoring one product over other products or to substantiate a determination that no other manufacturer's products are equal in quality and performance to the products specifically named. Rejection of a low bid offering products as equal to the product named in the purchase description will be based on a determination that the products are in fact not the equal of the named product and do not meet the actual needs of the Government. Where a proper determination has been made that only one supplier can furnish the required item or items, the procurement must be accomplished by negotiation in accordance with Part 1–3 of this title.

(c) In a competitive procurement, before a contracting officer uses a purchase description containing an "or equal" standard, he shall either include the brand names of all products known to be "equal" or include a statement in the contract file, prior to solicitation of offers, describing efforts made to ascertain such brands and explaining the failure to name more than a single brand name in the purchase description. The cognizant Head of the Procuring Activity is responsible for assuring that each competitive procurement incorporating a "brand name or equal" standard be reviewed prior to solicitation with particular emphasis upon the following items:

(1) Eliminating the use of the "or equal" standard when it is not necessary (e.g., when the invitation for bid calls for a service which the contractor must provide in part by use of an air conditioner capable of performing a certain function, requiring use of a brand name air conditioner or equal is improper. Instead, the function which the air conditioner must be capable of performing should be described; or when a specification is used together with a brand name reference, and the specification itself, without reference to the brand name, adequately describes the Government's needs, the brand name reference should be omitted as being a requirement which serves no material purpose);

(2) Naming several acceptable brand name products and insuring that each is reasonably comparable with the other from the standpoint of quality and suitability for the Government's needs;

(3) Utilizing proper clauses and procedures as provided in § 1–1.307–6 of this title;

(4) Amplifying the requirement for furnishing with the bid descriptive material needed (i) to determine the equality of an offered "or equal" product, and (ii) to determine exactly what the bidder proposes to furnish, to make abundantly clear the information which said material must disclose (taking into account that where a bidder has previously furnished an acceptable equal item and offers to do so again the circumstances may justify omission of detailed descriptive data (40 Comp. Gen. 435); and

(5) Insuring that the characteristics described in § 1–1.307–4(b) of this title are stated in unambiguous terms, that they are generally descriptive of factors the Government considers essential, and that they are not so restrictive as to amount to a requirement for a single brand name product.

(d) Queries and requests to the contracting officer for clarification of brand name or equal standards from prospective offerors shall be coordinated with the appropriate technical and requirements personnel before reply. If an ambiguity exists in the solicitation, an appropriate clarifying amendment will be issued.

(e) The contracting officer must consider for award those bids offering products which differ from the brand name products referenced in the "brand name or equal" purchase description where he determines that the offered products are equal in all material respects to the products referenced. Bids shall not be rejected because of minor differences in design, construction, or features which do not affect the suitability of the products for their intended use.

(f) The contracting officer shall submit the description of an offered product to technical personnel for advice as to equivalency. The written advice of such personnel shall be given promptly upon the request therefor.

§ 2–1.310–10 Performance records.

(a) *Contractor performance evaluation.* Upon completion or termination of each contract exceeding $10,000 in value, a Contractor Performance Evaluation Form, FAA Form 3458 will be completed. The primary objective for evaluating and recording a contractor's performance is to provide a basis for determining the responsibility of the contractor in the award of future contracts.

(b) *Source of information.* The form shall be prepared by the contract specialist with the most intimate knowledge of the contractor's performance and it shall be approved by the contracting officer. Information in the contract files, as well as personal knowledge of the contractor's performance by the contract specialist, project manager, inspector, or other cognizant personnel should provide the basis for ratings. To assure equitable treatment for all contractors the form must be prepared factually and impartially. It should be clearly ascertained that delay in delivery or performance is the contractor's fault before charging him with responsibility for such delay. It is essential that the contractor specialist avail himself of all pertinent information before determining the appropriate ratings.

(c) *Rating instructions.* It is important that the ratings of "outstanding," "satisfactory," "unsatisfactory," assigned to the contractor for the various items accurately portray the contractor's performance, as they will be considered in determining the contractor's responsibleness for future awards. When a "satisfactory" rating is assigned to an item, no additional information is required to support the rating. When either an "outstanding" or "unsatisfactory" rating is assigned to an item, the reasons for such a rating must be included in the space provided.

(1) *Application of adjective ratings.* A contractor shall be rated "satisfactory" on the various items unless his performance is clearly above or below contractual requirements or general business practices in which case the rating of "outstanding" or "unsatisfactory," respectively, would apply. Below are examples of instances where the various adjective ratings might be appropriate. These examples are provided solely for the purpose of achieving a degree of uniformity as to the interpretation of the adjective ratings and they do not include all matters which should be considered in rating each factor.

(i) *Quality of end products or services—(a) Outstanding.* Contractor provides a product or services of a quality above the contractual requirements, or on his own initiative, recommends ways and means of improving specifications with the result that a better end item is produced.

(b) *Unsatisfactory.* Contractor is held in default for failure to furnish an acceptable product, or contractor had to repeatedly take corrective action to produce an acceptable product.

(ii) *Timeliness of performance*—(a) *Outstanding.* Contractor delivers or performs substantially before the contract due date either on his own initiative or by request of the contracting officer; or contractor accepts a tight delivery schedule and performs on time.

(b) *Unsatisfactory.* Contractor is substantially late due to his own deficiencies in performing his contract or fails to perform the contract and is held in default.

(iii) *Compliance with clauses*—(a) *Outstanding.* Contractor maintained an active and effective subcontracting program which provided maximum assistance to small business concerns and concerns located in labor surplus areas.

(b) *Unsatisfactory.* Contractor fails to comply with labor laws, nondiscrimination provisions, etc.; and it was necessary for the contracting officer to repeatedly instruct him to comply.

(iv) *Cost contract management (applicable to cost-type contracts only)*—(a) *Outstanding.* Contractor has demonstrated ability to control costs for highly complex work under cost contracts, or contractor was extremely efficient in managing Government-furnished property and Government-owned facilities.

(b) *Unsatisfactory.* Contractor failed to properly manage contract resulting in substantial cost overruns, or he was careless in managing Government-owned property and facilities.

(v) *General business conduct*—(a) *Outstanding.* Contractor maintained an effective line of communication with the contracting officer concerning progression of the contract, and anticipated delays; or demonstrated unusual perseverance and integrity in discharging his contractual responsibilities.

(b) *Unsatisfactory.* Contractor ignored instructions of the contracting officer to take corrective actions to comply with contract, failed to respond to communications, or in any way failed to demonstrate integrity in the conduct of his business dealings with the Government.

(d) *Filing of completed form.* The original shall be placed in the contract file.

(e) *Interim notice.* FAA Form 3458 is to be prepared upon the completion of termination of contracts exceeding $10,000. However, in the event a serious situation develops with a contractor before the form is due, the interim notice procedure set forth in this paragraph will be used. These serious situations would include such things as (1) anticipated bankruptcy, (2) labor statute violations so acute that a recommendation for debarment is contemplated, or (3) serious performance problems which indicate an inability or unwillingness to perform. When such situations develop, an interim notice in memo form shall be sent to the Washington Procurement Policy and Standards Division, IM–600, who in turn will alert all Agency procurement offices. If the contractor later cures his unsatisfactory performance or the condition which prompted the submission of the initial notice, the notice shall be supplemented stating what action was taken by the contractor to correct the deficiencies. The routing of any supplements shall be the same as the initial notice.

§ 2–1.315 Use of liquidated damages provisions in procurement contracts.

§ 2–1.315–2 Policy.

(a) Determination as to the use of liquidated damages provisions in a contract, and of the rate of such damages, is solely the responsibility of the contracting officer. In making the determination, he shall obtain essential facts from the requisitioning office and be guided by a strict application of the criteria set forth in § 1–1.315–2 of this title and by the following general policies:

(1) Liquidated damages provisions will not be used routinely in Agency contracts, but they may be used when failure to meet the completion or delivery schedule in a proposed facility or equipment contract will seriously delay established commissioning dates. They may also be used in other situations when failure to perform will likely cause the Agency to suffer substantial damages, the amount of which is difficult or impossible to determine.

(2) Liquidated damages provisions generally should not be used: (i) In contracts for supplies or services that are for administrative purposes; (ii) in contracts for standard commercial or "shelf items"; (iii) in any contract where the needs of the Agency can be met by termination and reprocurement if the initial contractor defaults; (iv) in small purchases (under $2,500); and (v) in study, experimental, development or research contracts including equipment contracts requiring developmental work.

(3) In transactions involving an item where only a portion of the quantity ordered is for immediate programs, and liquidated damages provisions would be applicable in accordance with prescribed policies, care should be taken to have the liquidated damages provisions apply only to the urgent quantity.

(4) A fixed formula, based on percentage of value, shall not be used to establish the rate of damages. Consideration shall be given to the following factors in establishing the rate of damages: (i) The importance of the item in relation to the facility or project for which it is intended; (ii) the number of facilities or projects involved; (iii) the relative importance of the facility or project in the over-all program of the Agency; (iv) the tightness of the contract schedule and (v) any unusual damages that can be anticipated.

(5) Unless it is clear that partial delivery will proportionately reduce the extent of probable damages, rates shall not be applied to individual units of an item, but rather to quantities of an item, or to groups of items, which are required for delivery or completion at the same time. Rates should generally be expressed in terms of even dollars per day of delay with a minimum of $1.

Where rates are applied to quantities or groups, assessment of damages will not be prorated for delay of partial quantities.

(b) Positive followup on the contractor's performance and actions to eliminate delays in all contracts shall be maintained at all times. Serious consideration shall be given to termination of contracts which included liquidated damages provisions in any case where the accrued damages reach 15 percent of the contract value.

(c) Where liquidated damages provisions are used, they shall be strictly enforced. In making partial or progress payments, deductions for damages should be made on the basis of the actual number of days of delay multiplied by the rate. Exception may be made if the contractor has applied for an extension of time and provided sufficient information to permit a finding by the contracting officer, or if delays caused by the Government are clearly established. In such cases appropriate adjustments should be made and the contractor notified of the action taken. It is the contractor's responsibility to give notice of delays and to provide evidence to support any remission of damages or contract time extension.

(d) Submission to the Comptroller General with a recommendation for the remission of liquidated damages (41 U.S.C. 256A) shall be prepared for the signature of the Associate Administrator for Development and forwarded to IM–600. All relevant facts and documents shall accompany the submission, e.g., (1) conditions which prompted the assessment of damages, (2) findings and decisions of the contracting officer, and (3) any decision of the Agency Contract Appeals Panel.

(e) If the contract is terminated, the contractor remains liable for liquidated damages that have accrued. Moreover, on a default termination of a fixed price supply contract, liquidated damages continue to accrue, even after default, until the FAA can reasonably obtain delivery of the supplies or performance of the services. This is in addition to any other FAA rights to damages under default provision for the excess costs of reproducing the supplies or services of the terminated contract.

§ 2–1.318 Contracting Officer's decision under a Disputes clause.

When a final decision of the contracting officer involves a dispute that is or may be subject to the Disputes clause, a paragraph substantially the same as that set forth in § 1–1.318(a) of this title shall be included in the decision with the title "Administrator" inserted in the blank space in the paragraph. The decision shall also contain the following paragraph:

> The FAA Contract Appeals Panel is the authorized representative of the Administrator in hearing, considering, and deciding such appeals. The rules of the FAA Contract Appeals Panel are set forth in the Code of Federal Regulations (41 CFR 2–60 et seq.).

§ 2–1.351 Agency policy on precontract and anticipatory costs.

Agency policy set forth in Agency Order 4450.2 requires that there be a contract in existence prior to permitting performance of work or services. No Agency employee may enter into informal, unauthorized arrangements with proposed contractors nor permit them to proceed with performance under "precontract cost," "anticipatory cost," or any other arrangements including "proceeding at the contractor's own risk."

§ 2–1.352 Sole source procurement.

It is basic Government policy that the selection of contractors shall be competitive among qualified persons and businesses. The requirement for competition exists whether the procurement is formally advertised or negotiated. The law requires that negotiated procurements must be, to the fullest practical extent, competitive. To insure that Agency procurement conforms fully with basic Government policy favoring competitive procurement, all proposed sole source procurements must be fully justified and approved in accordance with Agency Order 4400.8A, "Justification for Sole Source Procurement." As stated in Agency Order 4400.8A, "where follow-on contracts are anticipated, sufficient data should be obtained under early contracts to permit competition on later contracts."

Subpart 2–1.4—Procurement Responsibility and Authority

§ 2–1.400 Scope of subpart.

This subpart deals with procurement responsibility and authority of the head of a procuring activity, contracting officers and their representatives; and with delegations of contracting authority. This subpart also imposes limitations upon the authority to enter into contracts.

§ 2–1.401 Responsibility of the head of a procuring activity.

The head of a procuring activity (defined in § 2–1.206) is responsible for the procurement of supplies and services under or assigned to the procurement cognizance of his activity. This responsibility includes the authority to issue delegations of authority, to impose limitations upon the authority delegated, to require such approvals as he may prescribe, and maintain required surveillance over delegated procurement performance. Except as specifically limited or prohibited in the FPR, FAPR, Agency Orders, or by law, the authorities vested in the head of a procuring activity may be delegated with power of redelegation.

§ 2–1.402 General authority of contracting officers.

(a) Subject to any limitation in the orders or other instruments designating an individual as a contracting officer, a properly designated contracting officer is granted all authority conferred by law, FPR, FAPR, and procurement office instructions.

(b) A contracting officer may enter into, amend, modify, and take other action with respect to contracts, provided (1) prior approval of award has been obtained if approval is required, (2) the contract is in writing (on a standard or approved form if such form is prescribed), (3) the contract and modifications are authorized by law and comply with the provisions of FPR and FAPM with respect to the use of contract clauses and does not contain any clause or involve matters in conflict with the established policy of higher authority, and (4) the contract complies with all other requirements of law, the FPR, FAPM, and applicable procurement office instructions.

(c) A contracting officer must assure himself that the contract is authorized by law and that funds are available.

(d) The acts of a contracting officer must be within the scope of the written orders designating him a contracting officer. Purchases, contractual commitments, and changes to contracts will be made only by duly designated contracting officers. Technical personnel and others whose duties require meetings and discussions with contractors, are without authority to direct changes in the work which may change the contractual terms or result in claims against the Government.

§ 2–1.403 Requirements to be met before entering into contracts.

No contract shall be entered into unless all applicable requirements of law and of FPR and FAPM, and all other applicable procedures, including clearances and approvals, have been met. The contracting officer will coordinate, as appropriate, his procurement and contracting activities with:

(a) Appropriate legal counsel, as required by Order OA 2220.1,

(b) Agency contract auditors of the Office of Audit on the financial, accounting, and cost aspects of contractual actions, as required by Order 2930.1,

(c) Pricing and transportation specialists, where they have been assigned or are available to the procurement office, and

(d) Cognizant engineering and technical personnel where there are technical considerations involved in the procurement.

(e) The Compliance and Equal Opportunity Officer for matters pertaining to equal employment opportunity.

(f) The appropriate Accounting Division when other than standard financing or payment provisions are contemplated.

§ 2–1.404 Special requirements to be met before entering into negotiated contracts.

In addition to the requirements in § 2–1.403, no negotiated contract shall be entered into until the determinations and findings required by Subparts 1–3.3 and 1–3.4 of this title and 2–3.3 and 2–3.4 of this chapter, with respect to the circumstances justifying negotiation and with respect to any use of a special method of contracting, have been made.

§ 2–1.405 Contracting officers representatives.

(a) A contracting officer may designate Government personnel to act as his authorized representative. Such designation shall be in writing and shall contain specific instructions as to the extent to which the representative may take action for the contracting officer, but will not contain authority to sign contractual documents. Such actions may include inspection, approval of shop drawings, testing, approval of samples, determining number of hours for a job, and other functions of a technical nature not involving a change in the scope, price, terms, or conditions of the contract or order. The responsibilities and limitations will be set forth in the contract or in a separate letter.

(b) A person assigned to and performing his primary duty within a procurement office, and who is under the supervision of a contracting officer, does not require designation as a representative nor designation in a contractual document to perform his assigned duties. Such a person is considered to be an employee of the contracting officer, acting in his behalf and as such has the authority to perform acts as assigned by the contracting officer. The contracting officer cannot authorize his employees to sign any contractual document or letter where the signature of a contracting officer is required.

§ 2–1.406 Delegation of contracting authority.

The authority of the contracting officer to enter into and execute contracts has been successively delegated from the Administrator to (a) the regional and center directors, (b) the Director, Installation and Materiel Service, (c) the Director, Office of Supersonic Transport Development, (d) the Director, Bureau of National Capital Airports, with the power to redelegate, and to (e) the Chief, Procurement Division of the National Airspace Systems Program Office, without power to redelegate. The contracting officer is responsible for knowing and observing the scope and limitations of his authority and may not exceed such authority.

§ 2–1.407 Responsibility of procurement personnel to question requirements and reaffirm their validity.

Procurement personnel are responsible for questioning any contemplated procurement action or its validity under the circumstances described in § 2–1.5207.

§ 2–1.408 Release of information.

(a) General information, other than classified information, concerning Agency procurement policy and practices, invitations for bids, or requests for proposals may be released to parties having a legitimate interest. However, in no event will an offeror's cost breakdown, profit, overhead rates, trade secrets, or other confidential or prejudicial business information be disclosed to others than another Government agency or to the business firm whose information is being

released. Classified information may be furnished only in accordance with regulations governing classified information.

(b) Instructions pertaining to release of other types of information (e.g., information which is to be made public for the first time to the press, radio, and other media) are described in Order OA P 1200.2.

Subpart 2–1.7—Small Business Concerns

§ 2–1.701–1 Small business concern (for Government procurement).

(a) When the procurement is either partially or totally set-aside for small business participation, the small business employment size standard (or other criteria) shall be stated in the solicitation.

(1) When the solicitation is for a manufactured product classified within an industry set forth in § 1–1.701–1(h) of this title, language reading substantially as follows shall be used:

> The small business employment size standard prescribed for this procurement is not more than [1]_____ employees, except when the concern is a small business nonmanufacturer in which case the employment size standard is not more than five hundred (500) employees.

(2) When the solicitation is for a manufactured product that is not classified within an industry set forth in § 1–1.701–1(h) of this title, language reading substantially as follows shall be used:

> The small business employment size standard prescribed for this procurement is not more than five hundred (500) employees.

(3) Similar language shall be used to prescribe the employment size standard, average annual receipts, or other criteria, in procurements for construction, research, development, and testing, services, transportation, and manufacturing.

§ 2–1.702 Small business policies.

(a) It is the Agency's policy as expressed in § 1–1.702 of this title to aid, counsel, assist, and protect—as far as possible—the interests of small businesses and to place a fair proportion of its total purchases and contracts for supplies, services, and research and development with small business concerns. This policy implements the Small Business Act of 1953 and the Federal Property and Administrative Services Act of 1949, both as amended.

(b) The responsibility for conscientiously and effectively carrying out the policies, procedures, and the aims of the Congress and this Agency will be the responsibility of all personnel engaged in procurement and related activities.

(c) Liaison shall be maintained and information exchanged with Federal, State, local and community agencies and organizations for the purpose of rendering the maximum amount of assistance to small business concerns.

§ 2–1.704 Agency program direction and operation.

[1] Insert "750" or "1000", as appropriate.

§ 2–1.704–1 Small Business Assistance Officer.

The Agency's Small Business Assistance Officer located in the Agency's Headquarters Office is responsible for the establishment, implementation, and execution of an appropriate Agency Small Business Program.

§ 2–1.704–3 Small business specialists.

(a) Small business specialists shall be appointed by name, in writing for each procurement office of the Agency. In any instance where the duty of a small business specialist is on a part-time basis, the appointment shall clearly indicate that assignment of such additional duty in no way relieves the individual from full responsibility for effectively accomplishing the activity's small business program requirements. A copy of each appointment and termination of appointment of all such specialists shall be forwarded to the Agency's Small Business Assistance Officer. In addition to performing that portion of the specific program outlined in paragraph (c) of this section that is normally performed in the activity to which he is assigned, the small business specialist shall perform such additional functions as are prescribed for him in furtherance of the overall small business program; i.e., attend and prepare exhibits for business clinics, provide information on the Agency's procurement programs to all segments of the business community, etc.

(b) Only those individuals possessing the necessary business acumen, knowledge of the Agency's procurement policies and procedures, training and background to accomplish effectively the objectives of the small business program shall be considered for appointment.

(c) A small business specialist appointed pursuant to paragraph (a) of this section shall perform the following duties, as determined to be appropriate to the activity by the appointing officer or his designee:

(1) He shall maintain a program designed to locate capable small business sources for current and future procurements, through SBA or other methods;

(2) He shall coordinate inquiries and requests for advice from small business concerns on procurement matters;

(3) Prior to issuance of solicitations or contract modifications for additional supplies or services, he shall determine that small business concerns will receive adequate consideration including initiation of set-asides. 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 at a level above that of the contracting officer, which decision shall be final;

(4) If small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, unless there are sufficient and valid reasons to the contrary, initiate action, in writing, with appropriate technical and contracting personnel to insure that necessary specifications or drawings for the current or future procurements, as appropriate, are available;

(5) He shall review procurement programs for possible breakout of items suitable for procurement from small business concerns;

(6) He shall advise small business concerns with respect to the financial assistance available under existing law and regulations and assist such concerns in applying for financial assistance. He shall also assure that requests by small business concerns for proper assistance are not treated as a handicap in securing the award of contracts;

(7) He shall participate in determinations concerning responsibility of a prospective contractor whenever small business concerns are involved;

(8) He shall participate in the evaluation of a prime contractor's small business subcontracting program;

(9) He shall review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the small business program;

(10) He shall assure that participation of small business concerns is accurately reported;

(11) He shall make available to SBA copies of solicitations when so requested; and

(12) He shall act as liaison between the contracting officer and the cognizant SBA office and representative in connection with set-asides, certificates of competency, size classification and any other matter in which the small business program may be involved.

§ 2–1.706 Procurement set-asides for small business.

§ 2–1.706–1 General.

(a) Subject to any applicable preference for labor surplus area set-asides as provided in Subparts 1–1.8 of this title and 2–1.8 of this part 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, or by the contracting officer alone if the small business specialist is not available), to be in the interest of:

(1) Maintaining or mobilizing the Nation's full productive capacity;

(2) War or national defense programs; and

(3) Assuring that fair proportion of Government procurement is placed with small business concerns.

(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 de-

pend 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 § 2–1.706–3). Any class of procurements proposed to be totally set aside shall satisfy the requirements of §§ 1–1.706–5 of this title and 2–2.706–5 of this chapter.

(c) 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.

§ 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 insure 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-aside determination by giving written notice to the small business specialist stating the reasons for the withdrawal. Similarly, a class set-aside may be modified with the concurrence of the small business specialist or withdrawn on 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 to an official above the level of the contracting officer. A memorandum of the decision by the appointing authority or his designee shall be placed in the contract file. After receipt of a decision from the appointing authority, or his designee 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 a copy of the memorandum of decision to the Agency Small Business Assistance Officer.

§ 2–1.706–5 Total set-asides.

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

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

(c) Contracts for total small business set-asides may be entered into by conventional negotiation or by a special method of procurement known as "Small Business Restricted Advertising." The latter method shall be used wherever possible. Where multiyear procurement procedures are appropriate, total set-asides may be made in connection therewith and invitations for bids and requests for proposals restricted to small business concerns. "Small Business Restricted Advertising," including awards thereunder, shall be conducted in the same way as prescribed for formal advertising except that bids and awards shall be restricted to small business concerns.

(d) In procurements involving total set-asides for small business each IFB or RFP shall contain the notice set forth in § 1–1.706–5 of this title, and the applicable small business size standard. Bids received from firms which do not qualify as small business concerns shall be considered as nonresponsive and shall be rejected.

§ 2–1.706–6 Partial set-asides.

(a) Subject to any applicable preference for labor surplus area set-asides, a portion of a procurement, not including construction, shall be set aside for exclusive small business participation where:

(1) The procurement is not appropriate for total set-aside;

(2) The procurement is severable into two or more economic production runs or reasonable lots; 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 advance inquiries to determine the number of interested concerns. Any deviation from this partial set-aside procedure must be approved at a level above that of the contracting officer or his designee in a case-by-case basis.

(b) Similarly, a class of procurements, not including construction, may be partially set aside.

(c) IFB's or RFP's involving partial set-asides should contain a notice substantially as set forth in § 1–1.706–6 along with the applicable small business size standard.

§ 2–1.710–2 Small business subcontracting program.

(a) In making the determination as to whether the contract offers substantial subcontracting possibilities, the contracting officer shall be guided by the method and type of procurement, the nature of the item or service being procured, and the potential sources of supply for these items or services.

(b) The small business specialist of the procurement activity in his review of procurement requests should be alert to the subcontracting possibilities for small business concerns.

(c) When it is determined that the contract offers substantial subcontracting possibilities, the IFB or the RFP will contain the "Small Business Subcontracting Program" clause.

§ 2–1.710–4 Review of subcontracting program.

(a) The small business subcontracting program clause requires the prime contractor to take the following steps:

(1) Name a small business liaison officer to administer the clauses and to deal with the FAA and SBA;

(2) Arrange solicitations and delivery schedules so that small business firms can compete;

(3) Maintain records that describe the prime contractor's dealings with small business firms;

(4) Notify the contracting officer of proposed subcontracts over $10,000 for which his consent or ratification is required and for which the prime contractor does not plan to solicit a small business source;

(5) Include the utilization of small business concerns clause in subcontracts that offer further subcontracting possibilities; and

(6) Require subcontractors to establish similar programs if their subcontracts are, in turn, over $500,000 and contain the utilization of small business concerns clause.

(b) Immediately after award of the contract the small business specialist shall be given the name of the contractor's liaison officer for small business matters. The small business specialist as a representative of the contracting officer shall review with the contractor's liaison officer as soon as possible after

award and periodically thereafter the contractors' subcontracting program for small business concerns. A written report of the review shall be inserted in the contract file.

Subpart 2–1.8—Labor Surplus Area Concerns

§ 2–1.801 Definitions.

§ 2–1.801–2 Labor surplus areas.

Arrangements have been made for each procurement office to receive, directly from the Department of Labor, their publications, "Directory of Important Labor Market Areas" and "Area Labor Market Trends." Failure to receive these publications, or requirements for additional copies, should be called to the attention of the small business specialist at the procurement office.

§ 2–1.802–1 General policy.

(a) In the interest of assuring that this Agency effectively assists labor surplus area firms, the small business specialist of each procurement office shall serve as a special assistance officer for labor surplus area matters. His responsibility includes a review of the procurement of that office to assure full application of all special considerations and treatment of firms who would perform a substantial part of their work in labor surplus areas.

(b) The Agency's Small Business Assistance Officer is responsible for the issuing of necessary procedures and guidance on labor surplus area matters.

§ 2–1.804 Partial set-asides for labor surplus area concerns.

Total set-asides (permissible under the Small Business Program) may not be made for labor surplus area concerns. Partial set-asides may be made, but only if these two conditions exist: First, the procurement must be severable into two or more economic production runs or reasonable lots; Second, there must be one or more labor surplus area concerns that have the technical competence and productive capacity to furnish the set-aside portion at a reasonable price. Labor surplus area set-aside procedures are similar to the partial set-aside procedures of the Small Business Program. Section 1–1.804–2 of this title contains the form of notice to be used in the solicitation; and § 1–1.804–3 of this title states the award procedures for both set-aside and non-set-aside portions. If, prior to award, the contracting officer decides that a set-aside is not in the public interest, he may withdraw it. But he must make a written memorandum for the file, justifying his action. The procurement is then completed by advertising or negotiation, as appropriate.

§ 2–1.805 Subcontracting with labor surplus area concerns.

§ 2–1.805–1 General.

(a) When the proposed contract offers subcontracting responsibilities for surplus area firms, the invitation for bids (IFB) or request for proposals (RFP) shall contain the "Surplus Area Subcontracting Program" clause which requires that the name of the prospective contractor's designated liaison officer be furnished with the bid or proposal. Immediately after award of the contract, the name of the contractor's liaison officer shall be given to the procurement office's small business specialist for labor surplus area matters.

(b) The IFB or RFP should also advise prospective contractors that labor surplus areas are listed in "Area Labor Market Trends," copies of which may be obtained from the Bureau of Employment Security, Department of Labor, Washington, D.C. 20210.

§ 2–1.805–4 Review of subcontracting program.

Immediately after award of the contract the small business specialist shall be given the name of the contractor's liaison officer for labor surplus area matters. The small business specialist, as a representative of the contracting officer shall review with the contractor's liaison officer, as soon as possible after award, and periodically thereafter the contractor's subcontracting program for labor surplus area concerns. A written report of the reviews shall be inserted in the contract file.

Subpart 2–1.10—Publicizing Procurement Actions

§ 2–1.1001 General policy.

To obtain full competition and provide information to the public, § 1–1.1001 of this title requires that prospective prime contractors and subcontractors be informed of proposed Government procurements or procurements it has awarded.

§ 2–1.1002 Availability of invitations for bids and requests for proposals.

(a) A copy of all unclassified invitations for bids and requests for proposals issued by the Washington Procurement Operations Division, IM–700, will be displayed to prospective contractors and subcontractors.

(b) All other procurement offices will send to IM–700 a copy of their solicitation when:

(1) The proposed construction contract is estimated to exceed $25,000 (a copy of Standard Form 20 will suffice), or

(2) The proposed supply or service contract is estimated to exceed $5,000.

Copies of plans, drawings, specifications, and other attachments to the invitation for bid or request for proposal need not be furnished.

§ 2–1.1003 Synopses of proposed procurements.

§ 2–1.1003–1 Department of Commerce Synopsis.

One of the most widely used media for publicizing procurement action is the Commerce Business Daily, a daily list of U.S. Government procurement invitations, subcontracting leads, contract awards, sales of surplus property, and foreign business opportunities. Firms interested in receiving the publication should be advised that orders may be sent to the nearest Department of Commerce Field Office or the Superintendent of Documents, Commerce Business Daily, Government Printing Office, Washington, D.C. 20402. Annual subscription remittance of $15 ($57 annually for air-mail service) should be made payable to the Superintendent of Documents.

§ 2–1.1003–2 General requirements.

(a) Except as provided in § 1–1.1003–2 (a) of this title, all proposed Agency procurement actions of $5,000 and above are required to be synopsized in the Commerce Business Daily. "Procurement actions" includes modifications to existing contracts when new funds are obligated for additional services or supplies, but does not include change order or other contract modifications resulting from price changes, engineering changes, overruns, repricing actions, or the like. Procurements proposed to be awarded to a sole source of supply are not excluded from the synopsizing requirement. In such cases, appropriate notices substantially as follows shall be submitted for publication:

(1) *For unsolicited proposals.* "Negotiations will be conducted with (insert name and address of firm) for (insert brief description of supplies or services) on the basis of its unsolicited proposal. This notice is for information only. No RFP is available."

(2) *For other sole source procurement.* "Negotiations will be conducted with (insert name and address of firm) for (insert brief description of supplies or services). This notice is for information only. No RFP is available."

(b) Where the exemption in § 1–1.1003–2(a)(4) of this title is proposed to be the basis for not synopsizing the procurement, a statement of the circumstances which justify 15 days or less for receipt of bids or proposals shall be prepared and placed in the contract file. (See also § 2–2.202–1 of this chapter.)

§ 2–1.1003–4 Synopses of subcontract opportunities.

Section 1–1.1003–4 of this title extends the practice of synopsizing to subcontract opportunities. Except where subcontracting opportunities do not exist or it is not in the Government's interest to do so, the contracting officer shall submit to the Commerce Business Daily for publication the names and addresses of firms:

(a) To whom request for proposals are to be issued in connection with all procurement actions over $500,000. (The list of firms is in addition to the regular synopsis description—see § 1–1.1003–7(b) (4) and (8) of this title.

(b) That have submitted acceptable technical proposals in the first step of two-step formal advertising.

Subpart 2–1.55—Ethics and Standards of Conduct

§ 2–1.5500 Scope of subpart.

This subpart describes the main statutes and regulations governing employee responsibilities and conduct, ethics, and conflict of interest. This

subpart also applies to dealings with persons who are within statutory or regulatory prohibitions.

§ 2–1.5501 Government procurement policy.

(a) Government officials may not favor or provide a competitive advantage to any one firm over others seeking Government business. Nor may the interests of any contractor be placed above those of the Government.

(b) As the procurement program has grown, the Government has given increasing attention to ethics and standards of conduct in procurement. Agency procurement personnel are in a position of great trust and responsibility when they handle public funds. They must be alert to maintain both the highest public confidence and their own individual integrity, guarding carefully against conflicts between their personal interests and their responsibilities to the Agency.

§ 2–1.5502 Agnecy regulations governing ethical and other conduct and responsibilities of employees.

§ 2–1.5502–1 Gifts, entertainments, and favors.

(a) Except as provided in § 2–1.5502–2, no employee may solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, food, lodging, refreshments, loan, or any other thing of monetary value, from a person or employer of a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the FAA; or

(2) Conducts operations or activities which are regulated by the FAA; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his official duties.

(b) Each employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(c) No employee may solicit contributions from another employee for a gift to an employee in a superior official position. No employee in a superior official position may accept a gift presented as a contribution from employees receiving less salary than himself. No employee may make a donation as a gift to an employee in a superior official position (5 U.S.C. 113).

(d) No employee may accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 114–115a.

§ 2–1.5502–2 Exceptions.

Notwithstanding § 2–1.5502–1(a), an employee is permitted to:

(a) Accept a gift, gratuity, favor, entertainment, loan, or other thing of monetary value when the circumstances make it clear that obvious family relationships (such as those between the parents, children, or spouse of the employee and the employee) rather than the business of the persons concerned are the motivating factors;

(b) Accept food or refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting, or other meeting, or on an inspection tour, when the employee's conduct of official FAA business will be facilitated by that meeting or tour and when no reasonable provision can be made for individual payment by the employee;

(c) Accept an invitation addressed to the FAA when approved by the Administrator of the FAA, for employees to participate in an inaugural flight or other ceremonial event related to the development of civil aeronautics, and accept food, lodging and entertainment incident thereto;

(d) Accept loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; or

(e) Accept unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

§ 2–1.5502–3 Outside employment and other activities.

(a) No employee may engage in outside employment or other outside activity that is not compatible with the full and proper discharge of the duties and responsibilities of his official Government employment. Incompatible activities include, but are not limited to—

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) No employee may receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive order, or other regulation. However, no employee may, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the head of the office, service, region, or center concerned, gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(d) No employee may engage in teaching, lecturing, or writing on matters within the FAA's mission, or use his official Agency title in connection therewith, without the prior approval of the employee's supervisor.

(e) Unless authorized by an appropriate exemption issued by the Deputy Administrator or a regional or center director, no employee may—

(1) Engage in the business of buying and reselling aircraft components, aircraft accessories, or aircraft; or

(2) Engage in a business involving the performance of research, engineering, construction, maintenance, repair, modification, piloting, or other related work with respect to aircraft, aircraft components, airborne electronics equipment or any other material or equipment associated with flight control or aircraft movements or air-ground communications, or engage in a business carrying on any other phase of commercial aviation.

(f) No employee may be a member of any non-FAA organization, committee, or group whose primary purpose or program is to promote matters within the purview of the FAA's responsibilities, if that membership involves, or may appear to involve, unethical use of the employee's official position or of information or resources to which the employee has access by reason of employment with the FAA. However, employees are not precluded from being members of organizations which have as a primary purpose the enhancement of the professional status of their members, or of any employee organization as defined in Executive Order 10988.

(g) No employee may engage in outside employment under a State or local government, except in accordance with Part 734 of Chapter I of Title 5, Code of Federal Regulations.

(h) This section does not preclude an employee from:

(1) Receipt of bona fide reimbursement, unless prohibited by law, for actual expenses for travel and such other necessary subsistence as is compatible with this subpart for which no Government payment or reimbursement is made. However, an employee may not be reimbursed, and payment may not be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits;

(2) Participation in the activities of National or State political parties not prescribed by law; or

(3) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 2–1.5502–4 Use of Government property.

No employee may directly or indirectly, use or allow the use of, Government property of any kind, including property leased to the Government, for other than

officially approved activities. Each employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted to him.

§ 2–1.5502–5 Misuse of information.

(a) For the purpose of furthering a private interest, no employee may, except as provided in § 2–1.5502–3(c), directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

(b) No employee may make any unauthorized disclosure of official Agency information.

§ 2–1.5502–6 Other standards of ethics and conduct.

Other standards of ethics and conduct applicable to Agency employees are contained in the Agency regulations on employee responsibilities and conduct (14 CFR, Part 199, published on Mar. 29, 1966, in the FEDERAL REGISTER, and transmitted with Order 3750.3).

§ 2–1.5503 Other matters regulated by law.

§ 2–1.5503–1 Officials not to benefit.

(a) The Officials Not to Benefit clause (see § 1–7.101–19 of this title) is the oldest mandatory contract clause required by statute on this subject (Title 41 U.S.C. 431). It applies to all Government contracts and provides that no member of or delegate to Congress, or any resident commissioner, shall receive any benefit from a contract. This is designed to prevent jobbing (seeking private gain through public service) between legislators and Government procurement personnel.

(b) The clause expressly states that it does not apply to a contract made with a corporation for the corporation's general benefit. This permits the Government to contract with a corporation whose president happens to be a member of Congress.

(c) The statute has both civil and criminal aspects. In case of violation, both parties are subject to fine, and any prohibited agreement between them is void. If procurement personnel encounter a situation covered by the statute, they should notify the contracting officer for further referral of the matter to higher authority.

§ 2–1.5503–2 Covenant against contingent fees.

All Agency contracts contain the Covenant Against Contingent Fees clause (see § 1–1.503 of this title), which is intended to prevent the use of purchased influence in obtaining Government contracts. The use of the clause and administration and enforcement of the covenant is discussed in Subparts 1–1.5 of this title and this 2–1.5.

§ 2–1.5503–3 Fees or kickbacks by subcontractors.

The so-called Anti-Kickback Act (Title 41 U.S.C. section 51) prohibits subcontractors under all negotiated Government prime contracts from giving anything of value to employees of the primes or of higher-tier subcontractors. Payments from subcontractors to any officer, partner, employee, or agent of the prime contractor or to an intervening subcontractor are covered by the Act. The prohibited payments include direct or indirect payment of a fee, commission, compensation, or gratuity of any kind, as an inducement for (or acknowledgement of) the award of a subcontract. If such payment is shown to have been made, there is a conclusive presumption that it was included in the price of the subcontract. Its cost would thus ultimately be borne by the Government, and the Government can recover it. The Act also imposes criminal penalties on the maker and receiver of the payment.

§ 2–1.5503–4 Bribery of public officials and witnesses.

Title 18 U.S.C. 201 makes it unlawful to bribe or attempt to bribe a public official. It covers giving, offering, or promising anything of value to an official or his designee with intent to influence an official act. Section 201 similarly prohibits the official from soliciting or accepting a bribe. Maximum penalties are provided. They include a $20,000 fine for certain major offenses, or three times the equivalent of the bribe (whichever is greater), and 15 years' imprisonment. The official is also disqualified from holding Federal office. For lesser offenses, there is a maximum fine of $10,000 and imprisonment for 2 years.

§ 2–1.5503–5 Compensation to Members of Congress, officers, and others in matters affecting the Government.

Title 18 U.S.C. 203 bars Government officers and agents from directly or indirectly receiving, or agreeing to receive, any payment from nongovernmental sources for services relating to any Government contract, claim, or other matter in which the United States is interested. The penalty is a maximum fine of $10,000, imprisonment for 2 years, and mandatory disqualification from Federal office.

§ 2–1.5503–6 Activities of officers and employees in claims against and other matters affecting the Government.

Title 18 U.S.C. 205 prohibits officers and employees from two activities. They may not act as agents or attorneys for, or aid or assist in the prosecution of, any claim against the United States. Nor may they represent any person as agent or attorney before the Government in any matter of Government interest. The maximum penalty under the section is a fine of $10,000 and imprisonment for 2 years.

§ 2–1.5503–7 Acts affecting a personal financial interest.

(a) Title 18 U.S.C. 208 prohibits a Government employee in the executive branch from acting on behalf of the Government in any matter involving an organization in which he has a financial interest. He is also disqualified if (to his knowledge) his spouse, minor child, or partner has a financial interest in such an organization. The section further bars the employee from acting for the Government if he is an officer, director, partner, or employee of an organization that has a financial interest in a transaction with the Government. The employee is even barred from such transactions if he is negotiating for or has an arrangement concerning prospective employment with that organization. The maximum penalty under section 208 is $10,000 and imprisonment for 2 years.

(b) The section also defines the type of participation by the employee that is prohibited. He may not participate personally and substantially in the matter, whether by decision, approval, disapproval, giving advice or recommendation, investigation, or otherwise. In two situations, however, the section permits the employee to act for the Government even if he does have some financial interest. First, he may act if he makes full advance disclosure to the Government of that interest and of the matter in issue. In this case, he must receive a written decision, in advance, that his financial interest is not so substantial as to affect the integrity of his services. Second, he may act if the Agency has exempted the financial interest from the requirements of the statute, by regulation published in the FEDERAL REGISTER. This may be done when the interest is too slight to affect the integrity of his services.

§ 2–1.5503–8 Voiding transactions in violation of law.

In addition to other remedies provided by law, Title 18 U.S.C. section 218 permits the head of a department or agency, pursuant to regulations, to rescind any transaction (such as a procurement contract) in which there has been a final conviction for violation of sections 201 through 209.

§ 2–1.5504 Violations.

Actual and alleged violations of the regulations, investigations conducted, and the final disposition of each case will be promptly reported to the appropriate Compliance and Security office.

Subpart 2–1.56—Value Engineering

§ 2–1.5601 Policy.

(a) *General.* Value engineering is concerned with elimination or modification of elements contributing to the cost of an item but is not necessary to required performance, quality, maintainability, reliability, standardization, or interchangeability. Value engineering usually involves an organized effort directed at analyzing the function of an item with the purpose of achieving the required function at the lowest overall cost. As used in this subpart "value engineering" means a cost reduction effort not required by any other provision of the contract. It is the policy of the Agency to incorporate provisions which encourage or require value engineering in all contracts of sufficient size and duration to offer reasonable likelihood for cost reduction. Normally, however,

this likelihood will not be present in contracts for architect-engineering, research, or exploratory development. This subpart deals with value engineering incentives which provide for the contractor to share in cost reductions that ensue from change proposals he submits.

(b) *Processing value engineering change proposals.* In order to realize the cost reduction potential of value engineering, it is imperative that value engineering change proposals be processed as expeditiously as possible.

§ 2–1.5602 Value engineering incentives.

§ 2–1.5602–1 Description.

Many types of contracts, when properly used, provide the contract with an incentive to control and reduce costs while performing in accordance with specification and other contract requirements. However, the practice of reducing the contract price (or fee, in the case of cost reimbursement type contract) under the "Changes" clause tends to discourage contractors from submitting cost reduction proposals requiring a change to the specifications or other contract requirements even though such proposals could be beneficial to the Government. Therefore, the objective of a value engineering incentive provision is to encourage the contractor to develop and submit to the Government cost reduction proposals which involve changes in the contract specifications, purchase description or statement of work. Such changes may include the elimination or modification of any requirements found to be in excess of actual needs regarding for example, design components, materials, material processes, tolerances, packaging requirements, or testing procedures and requirements. If the Government accepts a cost reduction proposal through issuance of a change order, the value engineering incentive provision provides for the Government and the contractor to share the resulting cost reduction in the proportion stipulated in the value engineering incentive provision.

§ 2–1.5602–2 Application.

(a) Except as limited by § 2–1.5602–3, a value engineering incentive provision shall be included in all advertised and negotiated procurements as required by and in accordance with the guidelines in Order IM–4435.2, unless it is determined that the value engineering offers no potential for cost reduction, as for example, where a particular contract or class of contracts is of insufficient duration to allow value engineering proposals to be processed, or where the item or class of items being procured is a commercial product whose design and cost are controlled by the commercial market.

(b) The contract clause providing for value engineering incentive is set forth in § 2–7.150–21 of this chapter.

(c) The precise extent to which the contractor should share in cost reductions must be tailored to the particular procurement. For advertised contracts, the percentage of contractor sharing shall be stated in the "Value Engineering Incentive" clause in the invitation for bids. For negotiated contracts the percentage of contractor sharing shall be stated in the solicitation although this percentage may be a subject of negotiation prior to award. In two-step formal advertising, although discussion of the appropriate percentage of contractor sharing is permissible in connection with the first step, a single percentage shall be stipulated in the invitation for bids that is issued at the beginning of the second step. In the case of firm fixed-price contracts, fixed-price contracts providing for escalation and fixed-price contracts providing for prospective redetermination, the contractor's share in any cost reduction normally should be 50 percent and in no event greater than 75 percent. However, if such contracts are not awarded on the basis of adequate price competition, a contractor's share of less than 50 percent may be appropriate. In the case of an incentive type contract, if it is determined that reasonable certainty exists that cost savings can be accurately estimated the contractor's share may be up to 50 percent; if such a certainty does not exist, his share should be in accordance with the maximum overall incentive pattern of the contract.

(d) When a value engineering incentive is to be included in a contract that also will include performance incentives that might be affected by changed specifications resulting from value engineering, the contract should include an appropriate provision to permit equitable revisions to the performance incentive provisions in the event that a cost-reduction proposal is adopted which affects the basis for computing the performance incentive so substantially that the performance incentive provisions would be rendered fundamentally unreasonable, or entirely beyond that contemplated by the parties at the time the contract was entered into.

(e) Since the value engineering incentive clause does not require the contractor to perform value engineering, it is intended that the inclusion of the value engineering incentive clause in itself will not increase costs to the Government beyond those considered reasonable for the contract of the contractor's business or the performance of the contract. Where cost analysis is required, cost allowability will be determined in accordance with normal application of the principles and the procedures provided in Parts 1–15 of this title and 2–15 of this chapter. Accordingly, where a contractor already has a value engineering program, the Government will bear a reasonable and allocable share of the cost of this program, but inordinate value engineering cost increases incurred solely because of inclusion of the clause shall not be allowed. Similarly, where a contractor does not have a value engineering program in existence, proper allocable cost of instituting a reasonable value engineering program is allowable.

§ 2–1.5602–3 Limitations.

Normally, value engineering incentive provisions shall not be included in procurements for architect-engineering, research, or exploratory development. In addition, with the exception of cost-plus-incentive fee contracts, value engineering incentive provisions shall not be included in cost-reimbursement type contracts.

PART 2–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 2–2.1—Use of Formal Advertising

Sec.

Subpart 2–2.2—Solicitation of Bids

Subpart 2–2.3—Submission of Bids

Subpart 2–2.4—Opening of Bids and Award of Contract

AUTHORITY: The provisions of this Part 2–2 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

Subpart 2–2.1—Use of Formal Advertising

§ 2–2.101 Meaning of formal advertising.

Formal advertising is by statute the basic and preferred method of procuring

supplies and services. Formal advertising has two basic objectives. One is to gain for the Government the benefits of full and free competition. The other is to afford all qualified sources the same opportunity to bid competitively. Since the procedures of formal advertising are established by law and regulation, in general, they cannot be deviated from. However, this does not mean that the contracting officer cannot exercise a certain amount of judgment and discretion. Therefore, he must not only be completely familiar with the rules and procedures that apply, but he must also understand the reasons for them.

§ 2–2.102 Policy.

(a) The basic law applicable to FAA procurement is the Federal Property and Administrative Services Act of 1949, section 302(c) thereof provides that:

All purchases and contracts for property and services shall be made by advertising as provided in section 303, except that such purchases and contracts may be negotiated ---------- if ----------. (This section of the Act then cites the 15 circumstances permitting negotiation.)

Section 303 of the Act provides:

When advertising is required—(a) The advertisement for bids shall be made in a sufficient time previous to the purchase or contract, and specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of types of property and services necessary to meet the requirements of the Agency concerned. (b) All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitations for bids, will be most advantageous to the Government, price and other factors considered: *Provided*, That all bids may be rejected when the agency head determines that it is in the public interest to do so.

The law makes it clear that the circumstances of each procurement determine the purchase method. Negotiation may be used if it is determined formal advertising cannot be used and that a specific negotiation exception applies. Some factors applicable in deciding whether to use formally advertised procurement are as follows:

(1) Mere lack of time will not exclude the formal advertising method in a particular case. There must be a compelling urgency for the supplies or services to justify the use of negotiation under exception 302(c)(2) in lieu of formal advertising.

(2) The effective use of formal advertising depends on adequate competition. There should be at least two qualified firms available and interested in bidding.

(3) Specifications are a critical factor in use of formal advertising procedures. If the qualitative requirements of the desired item or services are not defined well enough to permit all bidders to bid on the same basis, formal advertising is impracticable. Thus, much research and development effort cannot be formally advertised since it cannot be described in specifications. However, once the production stage is reached there must be stronger justification for not advertising. Consideration should be given at that stage to the use of two-step advertising discussed in Subparts 1–2.5 of this title and 2–2.5 of this part. Thus, the contracting officer's decision as to whether specifications will allow straight formal advertising, two-step advertising or require the use of negotiation procedures depends mainly on sound procurement judgment.

(b) a contractor or subcontractor shall be required to submit cost or pricing data for certain contract modifications, and shall be required to certify that, to the best of his knowledge and belief, the cost or pricing data he submitted was accurate, complete, and current. To insure compliance with this requirement, contracting officers shall follow the instructions set forth in §§ 1–3.807–3 of this title and 2–3.807–3 and 2–56.539 of this chapter.

§ 2–2.105 Solicitation for informational or planning purposes.

Formal solicitation of bids and competitive bid procedures should not be used on a "exploratory" basis for the purpose of testing the market. This does not mean that bids may not be rejected on the basis of an administrative determination that rejection is in the public interest. Technical data, information on new and improved products and price and delivery information will frequently be required for planning and budgetary purposes. Such information may be solicited from commercial concerns on the basis of an informal inquiry, stating the purpose for which the information is desired and clearly indicating that the reply will not be considered as a binding offer to sell. Price and availability information secured on this basis should not be disclosed to potential competitors. (See § 1–1.314 of this title.)

Subpart 2–2.2—Solicitation of Bids

§ 2–2.201 Preparation of invitation for bids.

Prior to the preparation of the invitation it is critical that an analysis be made of the procurement request. Instructions concerning the processing and analysis of procurement requests are contained in Subpart 2–1.52 of this chapter.

(a) *Forms.* (1) The contract forms for formal advertising are set forth in Subparts 1–16.1 and 1–16.4 of this title and § 2–16.150 of this chapter. Pen and ink entries, deletions, or alterations shall not be made in an invitation for bids after it has been prepared for distribution.

(2) Where the invitation will be evaluated pursuant to § 2–2.407–5(a), the following clause shall be included in the invitation:

MULTIPLE AWARD EVALUATION

In addition to other factors, bids will be evaluated on the basis of advantage or disadvantages to the Government that might result from making multiple awards. For the purpose of making this evaluation, a factor of $50 will be applied as the administrative cost to the Government for issuing each contract awarded under this invitation.

(b) *Description of requirement.* (1) General: Each item in the schedule of the invitation will contain a brief description setting forth a summary of the essential characteristics thereof. Ordinarily, the description of each item in the procurement request will be sufficient for this purpose. However, reference to Federal stock numbers alone will not be considered sufficiently descriptive. For an item which has not applicable specifications, the item description may include a reference to applicable manufacturer's brand names with the words "or equal." When the item description is so limited to brand names or equal, a space will be provided under each item for bidders to specify the material offered. (See §§ 1–1.307–4 through 1–1.307–7 of this title and § 2–1.307–4 of this chapter for guidance concerning brand name products or equal.)

(2) Providing for alternate bids: An alternate bid is one that offers a suitable substitute for the requirement set forth in the invitation. The Government can accept an alternate only when the invitation specifically allows it. In deciding whether to grant such permission, the contracting officer must weigh the advantages against the drawbacks in each particular case. Allowing them may make the evaluation process more difficult. The basic rule is that the alternate must be described as precisely as the requirement itself to assure that the same degree of competition is obtainable on the alternate bids as is obtainable on the basic items described. Otherwise, bidders might protest that they were not bidding the same basis.

(3) Specifications: It is the responsibility of originators of procurement requests to reference applicable specifications, plans, and drawings, and, when none are available, nor required, to prepare an appropriate purchase description. However, contracting officers have the following responsibilities with respect to specifications, plans, and drawings or purchase descriptions applicable to purchases within their cognizance: (See § 2–1.305 of this chapter for guidance concerning specifications.)

(i) To have knowledge of the provisions thereof;

(ii) To reference or otherwise incorporate applicable specifications, plans, and drawings or purchase descriptions in the schedule of the invitation;

(iii) To insure that all provisions of the invitation and the applicable specifications, plans, and drawings or purchase descriptions are consistent;

(iv) To include in the schedule of the invitations any clauses required to implement or supplement provisions of applicable specifications, plans, and drawings or purchase descriptions.

(4) Insuring against restrictive conditions: It is critically important to remove from specifications all conditions that unnecessarily restrict competition and to avoid other restrictive conditions unless they are required by law or regulation.

(5) In certain instances, where special skill or experience is clearly required

for a project, the Comptroller General has permitted some minimum qualifications to be stated in the invitation. These include years of experience, previous successful installation of like equipment, and so on. Such qualifications must be necessary to the specific definable needs of the procurement. Otherwise, they restrict competition unduly and the invitation may be canceled. Whenever qualifications of this sort are deemed necessary, the contracting officer should have the qualification requirement reviewed by counsel prior to issuance. (See § 2–1.5205–1 of this chapter on restrictive specifications.)

§ 2–2.202 Miscellaneous rules for solicitation of bids.

§ 2–2.202–1 Bidding time.

Minimum bidding time. As a general rule, bidding time shall be not less than 15 calendar days when procuring standard commercial articles and services, and not less than 30 calendar days when procuring other than standard commercial articles and services. Any deviation therefrom must be fully justified and documented in the contract file by the contracting officer.

§ 2–2.202–2 Telegraphic bids.

Unless telegraphic bids are specifically allowed by the invitation, they must be rejected. The contracting officer may provide for them under the circumstances indicated in § 1–2.202–2. When such bids are authorized, the schedule of the invitation will contain the following provision:

> Telegraphic bids may be submitted in response to this Invitation for Bids. Telegraphic bids must be received in this office prior to the time specified for opening of bids. Such bids must specifically refer to this Invitation for Bid; must include the item or subitems, quantities, and unit prices for which the bid is submitted and the time and place of delivery; and must contain all the representation and other information required by the Invitation for Bids together with a statement that the bidder agrees to all the terms, conditions, and provisions of the invitation. Failure to furnish, in the telegraphic bid, the representations and information required by the Invitation for Bids may necessitate rejection of the bid. Signed copies of the Invitation for Bids must be furnished in confirmation of the telegraphic bids.

§ 2–2.202–4 Bid samples.

(a) *Policy.* In exceptional cases bid samples and descriptive literature may be required from the bidders. Here, the provisions of §§ 1–2.202–4 and 1–2.202–5 of this title are important. Thus, if samples are to be asked for, the invitation should clearly state the number, size, and quantity needed; why they are needed; and how they will be evaluated. It should also include a clause like the one in § 1–2.202–4 of this title, which states that a bid will be rejected if a sample does not conform and that a late sample will be handled like a late bid. If the product has been procured or tested before, the procuring activity may not need a sample. In this case § 1–2.202–4(b) of this title provides that the matter may be waived. An unasked-for sample may simply be disregarded. But if the bidder indicates that he intends it to qualify his bid, it must be considered.

(b) *Handling of bid samples.* Samples, if not destroyed in testing, shall be returned to bidders at their request and expense, unless otherwise specified in the invitation for bids. See paragraph 3(b) of the Bidding Instructions, Terms, and Conditions (Supply Contract) (Standard Form 33–A). When samples are no longer required, disposition instructions shall be requested from the bidder and the samples disposed of accordingly. If disposition instructions are not received within 30 days, samples will be returned collect to the address from which received. Samples that are to be retained for inspection purposes in connection with deliveries shall be transmitted to the inspecting activity concerned, with instructions to retain the sample until completion of the contract or until disposition instructions are furnished by the contracting officer. Samples that are consumed or the usefulness of which is otherwise impaired by tests conducted to determine compliance with specifications will be disposed of as scrap unless the supplier requests their return.

§ 2–2.202–5 Descriptive literature.

When literature as defined in § 1–2.205–5 of this title is required, the invitation should specify exactly what should be submitted and how it will be evaluated and used. It shall also include the clause set forth in § 1–2.202–5 of this title, which states unless the descriptive literature discloses that the product offered satisfies the requirements set forth in the invitation, the bid will be rejected. The clause also provides that "Failure to furnish the descriptive literature by the time specified in the Invitation for Bids will require rejection of the bid, except that if the material is transmitted by mail and is received late, it may be considered under the provisions for considering late bids, as set forth elsewhere in this Invitation for Bids."

§ 2–2.202–6 Bid envelopes.

Postage, or envelopes bearing "Postage and Fees Paid" indicia shall not be distributed with the Invitation for Bids or otherwise supplied to prospective bidders. To provide for ready identification and proper handling of bids, Optional Form 17, "Sealed Bid Label," obtained from the General Services Administration, may be furnished with each bid set to provide the bidder with a means of specifically identifying his bid (see § 1–16.805 of this title).

§ 2–2.203 Methods of soliciting bids.

§ 2–2.203–1 Mailing or delivery to prospective bidders.

(a) Copies of invitations may be furnished for informational purposes to other nongovernmental organizations such as trade associations, and bidding informational services, provided they lend some assistance in advertising the requirements. The extent to which supporting papers (drawings, specifications, and general provisions) are furnished will depend on how the organizations intend to use the material. If they merely prepare a synopsis of bid solicitations for distributions to their members or subscribers, the invitation itself should suffice. If, however, they provide a reading room service (such as various trade associations do for construction projects), a complete set of all papers should be furnished without cost.

(b) In connection with invitations for construction, where the cost of reproduction and distribution of plans or drawings is a substantial cost item, the extent of distribution of bidding papers may be controlled by charging prospective contractors and subcontractors a flat, nonrefundable deposit fee. This method is preferred over the use of a refundable deposit system. When the plan fee method is used, arrangements should be made for plans and other bidding papers to be readily available for free inspection at the procurement office, other Federal Aviation Agency offices, trade association reading rooms, and similar locations. The nonrefundable plan fee should be $5, $10, or $15 per set, or more as may be appropriate. The value of the project and the cost of reproduction and distribution of the plans should be considered in determining which amount is appropriate. No additional charge should be made for plans which are revised or added after the invitation is issued, or for additional plans required by the successful bidder. Plan fees collected are for deposit in the "Miscellaneous Receipts" account.

§ 2–2.203–3 Publicity in newspapers and trade journals.

(a) General contracting authority does not include authority to order advertising in newspapers or periodicals. Where specific authority for such advertising has been delegated, paid advertisements in newspapers and trade journals and similar advertising media may be used to solicit bids for large construction projects (over $500,000) or for other projects where the Agency could not otherwise obtain the full benefit of available competition. Price paid for advertising shall not exceed commercial rates charged to private individuals. Only Standard Form SF–1143 and SF–1143a shall be used to place these orders. Paid advertising shall be accomplished in accordance with the procedures contained in Title 7, Chapter 5200, GAO Policy and Procedures Manual.

(b) Title 44, U.S.C., 321 prohibits advertising in any newspaper published and printed in the District of Columbia unless the supplies or labor to be secured are to be furnished or performed in the District of Columbia or in the adjoining counties of Maryland and Virginia.

§ 2–2.203–4 Synopsis of invitations for bids.

Synopsis of invitations for bids shall be prepared and publicized in the Commerce Business Daily in accordance with § 1–1.1003 of this title and Subpart 2–1.10 of this chapter.

§ 2–2.205 Bidders mailing lists.

§ 2–2.205–1 Establishment of lists.

(a) Firms, other than local suppliers, applying to be placed on the bidders' mailing list of a procurement office shall be briefed on the procurement programs of the various procurement offices throughout the Agency. If a firm indicates an interest in being placed on the bidders' list of certain other Agency procurement offices, the office receiving the "Bidders Mailing List Application," SF–129 shall send copies of the form to the selected offices with an appropriate covering memorandum. The selected offices shall acknowledge receipt of the application by letter to the bidder with a copy to the initiating office.

(b) Developing the source list for a procurement requires the coordinated effort of contracting, technical, and other personnel—all of whom share responsibility for the final results of the procurement. Procurement requests may include a list of sources recommended for solicitation by the initiator based on the following considerations: (1) The availability and capability of physical resources and technical, engineering, or production personnel; (2) past performance or experience in a given area or with a particular item or product line; and (3) available production capacity.

(c) The contracting officer may accept the initiator's suggested sources as technically qualified to bid. Or, he may ask the initiator to provide supporting data when (1) he has good reason to question a firm's qualifications, or (2) a suggested firm has not previously worked on a FAA procurement. Generally, the contracting officer or the assigned contract specialist reviews the list to ascertain whether the recommended sources are qualified to perform the work. Next and very important since the procurement request should permit the broadest possible competition consistent with the nature of the procurement, he must make sure that the list of recommended sources is not restrictive. For instance, the contracting officer must require the initiator to justify any suggested single-source or limited source solicitation. Finally, the contracting officer must be satisfied that the list fully considers other Government policies and regulations governing the solicitation of sources. These include the Small Business and the Labor Surplus Area Programs.

(d) The contracting officer may wish to add to the list of recommended sources on the procurement request. To do this, he can refer to the bidders mailing list and, as appropriate, trade directories. On the other hand, the contracting officer may wish to remove sources from the recommended list. He may, for instance, have information on a proposed source that was not available to the initiating activity. However, he must have good reasons for doing so. This applies to deletion of a proposed source at the suggestion of any FAA activity.

§ 2–2.205–5 Release of bidders mailing lists.

Except as provided in § 1–2.205–5(b) of this title, the list of prospective bidders to whom invitations for bids have been furnished will not be made available for inspection to individuals outside the Agency. Such lists may, however, be made available to other Government agencies, at their specific request, and upon condition that the list will not be available for inspection to anyone outside the Government.

§ 2–2.206 Small Business and Labor Surplus Area set-asides.

See Subparts 1–1.7 and 1–1.8 of this title and 2–1.7 and 2–1.8 of this chapter.

§ 2–2.207 Amendment of Invitations for Bids.

FAA Form 2748, "Amendment to Invitation for Bids", shall be used when it is necessary to amend an invitation for bids. However, a careful review of procurement requests and drafts of invitations will reduce the need for amending invitations after they have been issued.

§ 2–2.250 Discussions with bidders.

§ 2–2.250–1 Discussions with bidders prior to opening date.

(a) One of the essential elements of formal advertising is that all bidders are afforded an equal opportunity to compete. For this reason, during the interval between the mailing of invitations for bids and the making of awards, discussion of the procurement with prospective bidders will be conducted only by or with the knowledge of the contracting officer.

(b) If discussions with prospective bidders reveal any ambiguities or inconsistencies in the invitation which, if not corrected, may result in the receipt of nonresponsive bids such ambiguities or inconsistencies will be corrected by issuing prior to the opening date a timely amendment to the invitation for bids, or by cancelling as appropriate.

§ 2–2.250–2 Prebid conference.

The prebid 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 invitation 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 prebid conference shall never be used as a substitute for amending a defective or ambiguous invitation, and may be used only when approved by the head of the procuring activity. It shall be conducted in accordance with the procedures prescribed in § 2–3.504 of this chapter.

Subpart 2–2.3—Submission of Bids

§ 2–2.301 Responsiveness of bids.

Where a bid does not appear to comply with all of the terms of the solicitation, the matter should be referred to counsel for advice as to whether the bid is nonresponsive. Nonresponsive bids must be rejected.

§ 2–2.302 Time of bid submission.

Where a telegraphic bid is received by telephone under circumstances described in § 1–2.302 of this title, the identity of the telegraphic employee telephoning the message shall be obtained and recorded in the invitation file.

§ 2–2.303 Late bids.

§ 2–2.303–1 General.

The bidder must make sure that his bid reaches the designated office before the exact time fixed for the opening. Bids received after that time are late bids, which may be considered under conditions prescribed in § 1–2.303 of this title and in this § 2–2.303.

§ 2–2.303–2 Consideration for award.

Late bids which are mailed by registered or certified mail or late telegraphic bids, may be considered only if received prior to award and if failure to arrive on time was solely because of:

(a) A delay in the mail for which the bidder was not responsible.

(b) A delay by the telegraph company (when telegraphed bids are authorized) for which the bidder was not responsible.

(c) Mishandling by the Government at the receiving activity.

§ 2–2.303–3 Mailed bids.

(a) Several presumptions apply in determining the time a late bid was mailed. In each case, the presumption can be rebutted only by evidence presented by the bidder. First, when the postmark on a bid sent by registered mail does not show the hour of mailing, the time of mailing is deemed to be the last minute of the date shown. Second, if no date is shown, it is presumed the bid was mailed too late. Third, if certified mail was used and a properly stamped receipt was obtained by the bidder but fails to show the hour of mailing, the first presumption above applies. However, if the post office station of mailing is indicated, then the time of mailing is presumed to be the last minute of the station's business day. If the certified mail postmark does not show a date, the second presumption above applies.

(b) When the time of delivery to the Government installation is at issue, the purchasing activity must consult the postmaster, superintendent of mails, or someone with authority at the post office that serves the installation. Information about the normal time for mail delivery to the installation should be obtained. When time permits, this information should be in writing.

§ 2–2.303–4 Telegraphic bids.

If a bid sent by wire is received after bid opening, it may be presumed that it was filed too late with the telegraph company. This rule prevails unless the bidder can show plainly that the bid was filed in time to have been delivered before opening. This evidence must be supported by a statement from an authorized telegraph company official.

§ 2–2.303–5 Hand-carried bids.

A late bid that was not sent by registered or certified mail or by wire, if authorized (for example a hand-carried bid) cannot be considered for award.

§ 2–2.303–6 Notification to late bidders.

If the contracting officer decides that a late bid cannot be considered for award, he should so inform the bidder. Section 1–2.303–6 of this title provides the proper form for this notice. (The wording of the form must be appropriately modified for telegraphic bids.)

§ 2–2.303–7 Disposition of late bids.

Unless it is determined that they may be considered for award, late bids should be held unopened until the award is made. They should then be returned to the bidders. Bidders may, however, request or agree to other methods of disposition. Late bids may be opened only to be identified.

§ 2–2.303–8 Records.

The contracting offices must record the handling of each late bid received. This record should include:

(a) The date and hour of mailing, filing, or delivery.

(b) The date and hour of receipt.

(c) A statement of whether the late bid was considered for award and the facts supporting the decision.

(d) The disposition of the bid.

(e) The envelope or other covering, if the bid was considered for award.

Subpart 2–2.4—Opening of Bids and Award of Contract

§ 2–2.401 Receipt and safeguarding of bids.

(a) All bids, modifications thereto, and bid samples received in response to invitations will be received and safeguarded by the appropriate procurement office in a secure location until the time prescribed for opening.

(b) Bid custodians, and alternates as necessary, will be designated by each procurement activity to conduct the functions involved in the receipt, custody, and recording and handling of bids.

(c) Incoming bids shall be handled as follows:

(1) Upon initial receipt of a bid (or any modification thereto) it will be immediately time-stamped (or be otherwise marked to indicate the place, date, and time of receipt), and then shall be placed in a secure location by the bid custodian.

(2) Bids received in unidentified or unsealed envelopes and bids opened by mistake will be handled as prescribed in § 1–2.401(b) of this title.

(3) All telegraphic bids and modifications will be sealed in envelopes immediately upon receipt, identified, and handled in the same manner as other bids.

§ 2–2.402 Opening of bids.

(a) The general procedures for opening bids are set forth in § 1–2.402 of this title. The bid-opening officer decides when the time set for bid opening has arrived. He announces it to those assembled for the opening. The bid-opening officer then publicly opens each bid that was received before his announcement. When it is practical to do so, he reads the bids aloud and has them recorded as prescribed in § 2–2.403.

(b) If it does not interfere with Government business, interested persons should be allowed to examine the bids. Second copies of the bids, if submitted, should be used for this purpose. The original bids should remain in the hands of the Government official. If there is no duplicate bid, the original copy may be examined, but under adequate Government supervision to insure that the bid is not changed in any way. As regards examination of descriptive literature accompanying bids, by competitive bidders, refer to § 1–2.404–4 of this title.

§ 2–2.403 Recording of bids.

An abstract of bids will be prepared on FAA Form 275, "Abstract of Bids (Procurement)," for each IFB as soon as practicable after bids have been opened or as soon as it is decided to cancel the invitation before opening of bids. The abstract will set forth all qualifications to the IFB made by bidders and included in their bid. As soon as practicable after bid opening a preliminary abstract of bids will be made available for public examination in the procurement office or other appropriate location. The preliminary abstract will be replaced by the abstract prepared when award has been made or bids have been rejected.

§ 2–2.404 Rejection of bids.

§ 2–2.404–1 Cancellation of invitation after opening.

Invitations should not be canceled after bids are opened unless there is a compelling reason for doing so. Every effort should be made to preserve the solicitation. Thus, for an increased requirement, it is generally in the Government's interest to award on the existing invitation and process the increase as a new procurement.

§ 2–2.406 Mistakes in bids.

§ 2–2.406–3 Other mistakes disclosed before award.

(a) The Chief, Procurement Policy and Standards Division, Installation and Materiel Service, IM–600, Federal Aviation Agency, Washington (or anyone acting in that position), is the designated central authority to make the determinations set forth in § 1–2.406–3 of this title.

(b) Cases referred to the Chief, IM–600, shall be accompanied by the data prtscribed in § 1–2.406–3(d)(3) of this title.

(c) When a determination has been made by the Chief, IM–600, the signed original will be forwarded to the contracting officer. All supporting documents submitted by the contracting officer, except his written statement will be returned to him. The contracting officer shall withhold award action until he has received the signed determination or official notice thereof.

(d) Cases considered doubtful by the contracting officer shall be referred to the Chief, IM–600, who will take appropriate action either to make a determination or to prepare a submittal over his signature to the Comptroller General.

(e) Where a case clearly must be submitted to the Comptroller General for decision (either pursuant to a specific request from the contractor or because the case does not fall within the criteria set forth in § 1–2.406–3 of this title) it may, if urgent, be submitted directly to the Comptroller General by the contracting officer. The submittal shall be forwarded through Agency legal personnel for this coordination and shall be accompanied by substantially the same data as cited in paragraph (b) of this section. A copy of the submittal letter shall be sent to the Chief, IM–600. If urgency is not a factor, the case shall be referred to the Chief, IM–600 for submission by him to the Comptroller General.

§ 2–2.406–4 Disclosure of mistakes after award.

(a) Agency contracting officers are authorized to correct mistakes in the kinds of cases contemplated in § 1–2.406–4(a) of this title.

(b) The Chief, Procurement Policy and Standards Division, Installation and Materiel Service, Federal Aviation Agency, Washington (or anyone acting in that position), is the designated central authority to make the determinations set forth in § 1–2.406–4(b) of this title.

(c) Cases referred to the Chief, IM–600, shall be accompanied by the data prescribed in § 1–2.406–4(f)(2) of this title.

(d) When a determination has been made by the Chief, IM–600, the signed original will be forwarded to the contracting officer. All supporting documents submitted by the contracting officer, except his written statement, will be returned to him. Upon receipt of the signed determination, the contracting officer shall take appropriate action to rescind or reform the contract, or to notify the contractor that the award will stand as made.

(e) Where administrative determination is precluded by the limitations set forth in § 1–2.406–4 of this title, or where the contractor has specifically requested review by the Comptroller General, the case shall be referred to the Chief, IM–600, who will prepare a submittal from the Administrator to the Comptroller General. The submittal shall be forwarded through the Office of the General Counsel for their coordination.

§ 2–2.407 Award.

§ 2–2.407–3 Discounts.

The discounts clause of the Bidding Instructions, Terms, and Conditions (Supply Contract) (Standard Form 33–A) establishes 20 calendar days as the minimum period for prompt payment discounts to be considered for bid evaluation unless otherwise specified in the invitation for bids. Prior to issuing an invitation for bids (except for construction), a determination shall be made as to whether the 20-calendar-day minimum period of prompt payment of discounts is appropriate. If a minimum period more or less than 20 calendar days is determined to be desirable, such minimum period shall be stated in the invitation for bids by including in the solicitation the following clause (the contracting officer shall delete (a) or (b) from the clause, whichever, is inapplicable, when "origin only" or "destination only" delivery acceptance is solicited):

DISCOUNTS

In accordance with subparagraph (a) of the clause entitled "Discounts" in the Bidding Instructions, Terms, and Conditions (Supply Contract) (Standard Form 33–A) prompt payment discounts will be considered in the evaluation of bids, provided the minimum period for the offered discounts is:

(a) ____ days where delivery and acceptance are point of origin or

(b) ____ days where delivery and acceptance are at destination.

The offered discounts of a successful bidder will form a part of the award whether or not such discount was considered in the evaluation of his bid and such discount will be taken if payment is made within the discount period.

§ 2–2.407–5 Other factors to be considered.

(a) *Multiple awards.* Advantages or disadvantages to the Government that might result from making multiple awards will be considered if the Multiple Award Evaluation clause specified in § 2–2.201 was included in the invitation.

(b) *Reasonableness of bid prices.* (1) Assurance shall be secured that the prices to be paid are fair and reasonable on the basis of valid criteria such as, but not limited to, (i) previous prices paid for similar items, (ii) independent Government estimates, (iii) current prices paid by other Government purchasing offices, or (iv) appropriate catalog prices, etc. The contract file shall be documented to show the actions taken in determining the reasonableness of the bid prices. (2) When the review performed pursuant to subparagraph (1) of this paragraph shows the bid prices to be unreasonable, the contracting officer shall cancel the invitation pursuant to § 1–2.404 of this title, and the procurement shall be (i) readvertised or (ii) negotiated under § 1–3.214 of this title.

§ 2–2.407–7 Statement and certificate of award.

For each contract made by formal advertising, Standard Form 1036 shall be prepared and executed by the contracting officer.

§ 2–2.407–8 Protests against award.

(a) Where a protest affects another bidder, a contractor, or any other party having a legitimate interest, the contracting officer shall, if he deems it necessary, give prompt notice of the protest to such parties so that they may take appropriate action on their own behalf. The extent and nature of the information to be furnished the affected parties will require the exercise of prudent judgment and will be determined by the particular aspects involved in the specific case. These aspects may include, but are not limited to, legal considerations, equitable consideration of the interests of the affected parties, mitigation of losses or other injuries to any and all parties concerned, and the interests of the Government. The recipients of such notice of protest shall be advised that the notice is primarily intended to afford them an opportunity to present pertinent comment for consideration of the Agency and that it in no way relieves them of any obligations, under a contract or otherwise.

(b) Where it is known that a protest against the making of an award has been made directly with the Comptroller General or other level of authority above that of the head of the procuring activity and a determination is made to make award under § 1–2.407–8(b)(3) of this title, the determination shall be approved by the head of the procuring activity. The notice of intent to make award required by § 1–3.407–8(b)(2) of this title shall be submitted to the Comptroller General over the signature of the head of the procuring activity.

(c) Where a protest is submitted to the Comptroller General by the Agency for resolution, the file shall contain a statement signed by the contracting officer setting forth his findings, actions, and recommendations. If a contract award was made pending resolution of the protest, the statement shall include the determination made under § 1–2.407–8(b)(3) of this title. The file shall include the following documentation, as appropriate or applicable:

(1) Copy of the invitation for bid;

(2) Copy of abstract of bids received;

(3) Copy of the low bid or copy of the bid of the successful bidder to whom award is proposed to be made;

(4) Copy of bid submitted by protester, if any, with his written statement setting forth the complete facts on which the protest is based;

(5) Written statements, when relevant, from other persons or bidders affected by or involved in the protest, setting forth the complete facts with respect to their position in the matter;

(6) Current status of award showing whether award action has been suspended;

(7) If award has been made, a copy of the contract with advice indicating its current status and whether a stop work order has been issued or is proposed to be issued;

(8) Any other supporting evidence or documents applicable to the protest.

(d) Where a protest is received after award of contract and it appears that the award may be held invalid, the contracting officer shall obtain the views and advice of legal counsel and the head of the procuring activity. A determination shall be made as to (1) whether a delay in receiving the supplies or services will be prejudicial to the Government's interests, and (2) whether the contracting officer should seek a mutual agreement with the contractor to "stop work" on a no-cost basis.

(e) If the contractor refuses to enter into a mutual agreement to "stop work" on a no-cost basis, the head of the procuring activity may direct the contracting officer to issue a unilateral "stop work" order unless the head of the procuring activity determines that receipt of the supplies or services is so urgent that such a unilateral order would be preprejudicial to the interests of the Government.

§ 2–2.408 Information to bidders.

On all contract awards in excess of $10,000 the unsucessful bidders shall be given a written notification of award. On awards under $10,000 this notification is optional with the contracting officer. This written notification shall contain the name of the successful contractor(s), and the unit price(s) or the total amount of the contract, whichever is appropriate. However, when numerous unit prices apply, thereby creating an extensive workload in furnishing this information, or where the total amount of the contract would not be meaningful, price information may be omitted. In the latter instance, the location where the abstract of bids is available for inspection shall be stated.

PART 2–3—PROCUREMENT BY NEGOTIATION

Subpart 2–3.1—Use of Negotiation

Subpart 2–3.5—Solicitations of Proposals and Quotations

AUTHORITY: The provisions of this Part 2-3 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

Subpart 2-3.1—Use of Negotiation

§ 2-3.103 Dissemination of procurement information.

(a) It is the policy of the Agency that, during the interval between mailing of requests for proposals (or quotations) and the making of awards, discussion of the procurement with prospective contractors and the transmission of technical or other information shall be conducted only by or with the knowledge of the contracting officer; except that necessary transmission of technical or other information to or from contractors during such period may be done by other personnel via contracting personnel, at meetings arranged by contracting personnel, or by official correspondence emanating from the contracting officer to the originating activity or technical bureau seeking clarification of the matter in question. In the conduct of necessary discussion of a request for proposals (or quotations) with suppliers, all personnel (responsible for or associated with requirements, specifications, procurement, technical review, or business clearance) are cautioned against furnishing any information to a supplier which may afford him any advantage over the other suppliers solicited. Subpart 2-3.8 of this part discusses in greater detail limitations on the disclosure of information during the preaward period.

(b) Procurement information which is classified shall be released only in accordance with regulations prescribed by the Compliance Division, Office of Compliance and Security. See Chapter 14 of Agency Handbook OA 1600.2.

(c) The clause set forth in § 2-7.150-15 of this chapter shall be included in contracts which are classified as "Confidential" or "Confidential Modified Handling Authorized" or higher.

(d) Except where the procurement is classified, all unsuccessful offerors shall be notified in writing that their proposals were not accepted when the contract award amount exceeds $10,000. The notification shall state the name of the successful offeror and the amount of the contract award and, if possible, be issued on the same day award is made; it shall in any event be issued within 3 days after the award.

§ 2-3.104 Disclosure of mistakes after award.

Sections 1-2.406-4 of this title and 2-2.406-4 of this chapter will apply to the handling of mistakes in proposals disclosed subsequent to award. Under certain circumstances the contractor may obtain relief under Public Law 85-804, see Subpart 1-17 of this title and Subpart 2-17 of this chapter.

Subpart 2-3.5—Solicitations of Proposals and Quotations

§ 2-3.500 Scope of subpart.

This subpart applies to all negotiated procurement except for small purchases (see Subpart 2-3.6 of this part).

§ 2-3.501 Competition.

Unless negotiation with a sole source is justified and approved in accordance with Agency Order 4400.8A, competitive proposals or quotations should be solicited from the maximum practicable number of qualified and eligible suppliers.

§ 2-3.502 Presolicitation notices and conferences.

This paragraph 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 offers.

§ 2-3.502-1 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 define 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 Subpart 1-1.10 of this title.

(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, with participation 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.

(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.

§ 2-3.504 Solicitation for informational or planning purposes.

See § 1-1.314 of this title.

§ 2-3.505 Bidders mailing lists.

Bidders mailing lists for negotiated procurements shall be established, maintained, and utilized in accordance with § 1-2.205 of this title.

§ 2-3.506 Preproposal conferences.

§ 2-3.506-1 General.

(a) The preproposal 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. Such conferences are especially desirable for R and D work.

(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.

§ 2-3.506-2 Procedure.

(a) Where it is determined to be in the best interests of the Government to hold a preproposal 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 preproposal conference shall be conducted by the contracting officer or his representative, with participation 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 record shall be made of the conference and copies furnished attendees.

§ 2–3.507 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 preproposal conference is held, amendments should be made 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 preproposal 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.

§ 2–3.508 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 § 1–2.303 of this title 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.) Exceptions may be authorized only by the head of the procuring activity, 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, all late proposals shall be opened prior to award and if not considered for award shall be returned to the offeror. Accordingly, in these cases, the procedures in §§ 1–2.303–6 and 1–2.303–7 of this title regarding the disposition of late bids will not apply.

(b) In the exceptional circumstance where the head of the procuring activity 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.

(d) Written requests for proposals shall contain the following provision:

LATE PROPOSALS

(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:

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

(2) 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

(3) 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 (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 mail 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:

(1) 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

(2) 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 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 § 1–2.303–6 of this title, 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 provosions 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 paragraph. 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 paragraph are also applicable to late modifications to quotations.

§ 2–3.509 Receipt and opening of offers.

It is vitally important for an offeror to feel that he will be treated fairly and impartially by the Agency. Therefore, the instructions for the receipt and safeguarding of bids in § 1–2.401 of this title shall also apply to the receipt and safeguarding of proposals and quotations.

§ 2–3.510 Treatment of procurement information.

§ 2–3.510–1 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.

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.

(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.

§ 2–3.510–2 Disclosure of information during the preaward or preacceptance 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 § 2–3.510.3.

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.

§ 2–3.510–3 Preaward 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, 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 the proposed contract is to be awarded within a few days and notice pursuant to § 1–3.103 of this title 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.

§ 2–3.511 Protests against award.

Protests against awards of negotiated procurements shall be treated substantially in accordance with § 1–2.407–8 of this title.

Subpart 2–3.7—Negotiated Overhead Rates

§ 2–3.700 Scope of subpart.

This subpart sets forth the policy and procedure governing the negotiation of overhead rates for use in cost-reimbursement type contracts.

§ 2–3.701 Definitions.

§ 2–3.701–1 Negotiated final overhead rates.

The term "negotiated final overhead rate," as used in this subpart, means a percentage of dollar factor which expresses the ratio(s) mutually agreed upon by the Government and the contractor, at the close of a regularly stated period (preferably the contractor's fiscal year), of indirect expense incurred in the period to direct labor, manufacturing cost, cost of sales, or other appropriate base of the same period. Ordinarily, such rates are used as a means of determining the amount of reimbursement for the applicable indirect costs for such completed period; in such cases, they are termed "postdetermined" overhead rates. In certain circumstances involving educational institutions, negotiated final overhead rates may be used as a means of determining the amount of reimbursement for the applicable indirect costs to be incurred during a future period of contract performance; in such cases, they are termed "predetermined" overhead rates (see § 2–3.704–2(b)).

§ 2–3.701–2 Provisional overhead rates.

The term "provisional overhead rate" as used in this subpart means a tentative overhead rate established for interim billing purposes pending negotiation of the final overhead rate.

§ 2–3.701–3 Overhead (indirect costs).

The term "overhead (indirect costs)," as used in this subpart includes, but is not limited to, the general groups of indirect expenses such as those generated in manufacturing departments, engineering departments, tooling departments, general and administrative departments and, if applicable, indirect costs accumulated by cost centers within these general groups. In the case of contractors using fund accounting systems, the term includes, but is not limited to, the general groups of expenses such as general administration and general expense, maintenance and operation of physical plant, library expenses, and use charges for building and equipment.

§ 2–3.702 Purpose.

The major purposes of negotiated final overhead rates are: (a) To effect uniformity of approach in cases where more than one contract or more than one Government agency is involved; (b) to effect economy in administrative effort; and (c) to promote timely settlement of reimbursement claims. In the interest of uniformity, the contracting officer should determine from the contractor whether the majority of his Government cost-reimbursement type contracts provide for "negotiated final overhead rates" and by what means he is reimbursed on an interim basis. Overhead clauses in FAA contracts should normally be of the same type as those in the contractor's contracts with the Department of Defense if any.

§ 2–3.703 Applicability.

Negotiated final overhead rates are authorized for use primarily in cost-reimbursement type contracts for research and development with commercial organizations and nonprofit or educational institutions. They may also be used in other cost-reimbursement type contracts, after a determination is made by the contracting officer that their use is advantageous to the Government. Where it is not apparent that any one of the major purposes enumerated in § 2–3.702 results or will result by the use of negotiated final overhead rates, the contracting officer will provide for settlement of overhead by audit determination.

§ 2–3.704 Contract clauses.

§ 2–3.704–1 Contracts with concerns other than educational institutions.

Insert the following clause in contracts with concerns other than educational institutions where negotiated overhead rates are to be used pursuant to this subpart. The appropriate "interim payment" clause set forth in § 2–3.704–3 shall be used in conjunction with this clause.

NEGOTIATED OVERHEAD RATES

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment," the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The contractor, as soon as possible but not later than ninety (90) days after the expiration of each period specified in the schedule, shall submit to the contracting officer with a copy to the cognizant audit activity a proposed final overhead rate or rates for that period based on the contractor's actual cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the contractor and the contracting officer shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1–15.2 of the Federal Procurement Regulations as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (i) the agreed final rates, (ii) the bases to which the rates apply, and (iii) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the contractor shall be reimbursed either at negotiated provisional rates as provided in the schedule or at billing rates acceptable to the contracting officer, subject to appropriate ad-

justment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rates provided in the schedule shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the contracting officer within the meaning of the "Disputes" clause of this contract.

In the case of a cost-plus-incentive-fee contract, substitute "Allowable Cost, Incentive Fee, and Payment" for "Allowable Cost, Fixed Fee, and Payment" in paragraph (a) of the foregoing clause.

§ 2–3.704–2 Contracts with educational institutions.

(a) Insert the following clause in contracts with educational institutions where postdetermined overhead rates are to be used pursuant to this subpart. The appropriate "interim payment" clause set forth in § 2–3.704–3 shall be used in conjunction with this clause.

NEGOTIATED OVERHEAD RATES (POSTDETERMINED)

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment," the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The contractor, as soon as possible but not later than six (6) months after the expiration of each period specified in the schedule shall submit to the contracting officer with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the contractor's actual cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the contractor and the contracting officer shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1–15.3 of the Federal Procurement Regulations as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (i) the agreed final rates, (ii) the bases to which the rates apply, and (iii) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the contractor shall be reimbursed either at negotiated provisional rates as provided in the schedule or at billing rates acceptable to the contracting officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rates provided in the schedule shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the contracting officer within the meaning of the "Disputes" clause of this contract.

(b) Provision may be made in cost reimbursement type research and development contracts with educational institutions for payment of reimbursable indirect costs on the basis of predetermined overhead rates: *Provided*, That this basis is used with respect to all contracts with an institution. Insert the following clause in contracts with educational institutions where such negotiated overhead rates are to be used pursuant to this subpart. The appropriate "interim payment" clause set forth in § 2–3.704–3 shall be used in conjunction with this clause.

NEGOTIATED OVERHEAD RATES (PREDETERMINED)

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment", the allowable indirect costs under this contract shall be obtained by applying predetermined overhead rates to bases agreed upon by the parties, as specified below.

(b) The contractor as soon as possible but not later than three (3) months after the expiration of his fiscal year shall submit to the contracting officer with a copy to the cognizant audit activity, a proposed predetermined overhead rate or rates based on the contractor's actual cost experience during that fiscal year, together with supporting cost data. Negotiation of predetermined overhead rates by the contractor and the contracting officer shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1–15.3 of the Federal Procurement Regulations as is in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (i) the agreed predetermined overhead rates, (ii) the bases to which the rates apply, (iii) the fiscal year unless the parties agree to a different period for which the rates apply, and (iv) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of predetermined overhead rates for any fiscal year or different period agreed to by the parties, the contractor shall be reimbursed either at the rates fixed for the previous fiscal year or other period or at billing rates acceptable to the contracting officer subject to appropriate adjustment when the final rates for that fiscal year or other period are established.

(f) Any failure by the parties to agree on any predetermined overhead rate or rates under this clause shall not be considered a dispute concerning a question of fact for decision by the contracting officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period specified in the schedule of this contract the parties fail to agree to a predetermined overhead rate or rates it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates—Postdetermined" clause set forth in section 2–3.704–2 of the Federal Procurement Regulations as in effect on the date of this contract.

(g) Allowable indirect costs for the period until the end of the contractor's fiscal year during which performance begins shall be obtained by applying the predetermined overhead rate set forth in the schedule to the bases set forth therein.

When predetermined overhead rates are to be used and no such rate or rates have been established for the contractor's current fiscal year, the contracting officer shall obtain from the contractor during the contract negotiations a proposal for a predetermined overhead rate or rates to be applied until the end of such fiscal year. As far as practicable, such proposal should be based on the contractor's cost experience under similar contracts together with supporting cost data. The overhead rate or rates for such initial period shall be predetermined by negotiation and set forth in the contract schedule. The schedule shall also include the bases to which the rates apply and the period for which the rates apply. Pending establishment of predetermined overhead rates for the initial period, the contractor shall be reimbursed at billing rates acceptable to the contracting officer, subject to appropriate adjustment when the final rates for that period are established.

§ 2–3.704–3 Interim payment of indirect costs.

When the contract includes a "negotiated overhead rate" clause as set forth in § 2–3.704–1 or § 2–3.704–2, one of the clauses listed below (whichever is consistent with the contractor's normal method of interim and final overhead reimbursement) shall be inserted in the contract schedule:

(a) The following clause shall be used when the contractor's normal method of interim overhead reimbursement is based on billing rates approved by the contracting officer (normally through an exchange of correspondence) rather than on formally negotiated provisional rates:

INDIRECT COSTS (BILLING RATES)

Pending the establishment of final overhead rates as provided for in the clause entitled "Negotiated Overhead Rates", the contractor shall be reimbursed for indirect costs on the basis of billing rates acceptable to the contractor and the Government auditor.

Prior to establishing or changing the billing rates, the contracting officer should seek the advice of the Agency's audit function as to the acceptability of the billing rates proposed by the contractor.

(b) The following clause shall be used when the contractor's normal method of interim overhead reimbursement is based on negotiated provisional rates. The provisional rates will remain in effect until such time as the contract is amended. The rates shall be listed immediately below the clause along with the base of applications for each rate listed:

INDIRECT COSTS (PROVISIONAL RATES)

Pending establishment of final overhead rates as provided for in the clause entitled "Negotiated Overhead Rates", the contractor shall be reimbursed for indirect costs on the basis of the negotiated provisional rates set forth below, which rates shall remain in effect until the contract is amended to incorporate either (a) final overhead rates for a specific period or periods or (b) revised negotiated provisional overhead rates as provided for in paragraph

(e) of the clause of this contract entitled "Negotiated Overhead Rates".

Prior to establishing or revising the negotiated provisional rates, the contracting officer should request the contractor to submit for review his proposed overhead rates with supporting cost data, with a copy to the cognizant audit activity. Provisional overhead rates may be revised after the contracting officer has either (1) received advice that the Department of Defense or other Government office sponsoring overhead negotiations with the contractor has negotiated acceptable overhead rates or (2) if the FAA is sponsoring the negotiations, the FAA contracting officer has arrived at an agreement with the contractor on the rates to be used (see also § 2–3.704–5).

§ 2–3.704–4 Audit determination—(actual).

Where it is not apparent that any of the major purposes enumerated in § 2–3.702 results or will result by the use of negotiated final overhead rates, the contracting officer will provide for settlement of overhead by audit determination. In these cases the following clause shall be used in lieu of the "Negotiated Overhead Rate" clause prescribed in §§ 2–3.704–1 and 2–3.704–2:

INDIRECT COSTS (ACTUAL)

In addition to all costs reimbursable under the "Allowable Cost, Fixed Fee and Payment" clause of the contract, the contractor shall be paid his actual overhead cost. Allowable overhead cost will be determined in accordance with the principles set forth in Subpart 1–15.2 of the Federal Procurement Regulation. Any failure of the parties hereto to agree as to what constitute actual overhead costs shall be considered a dispute covering a question of fact within the meaning of the clause of this contract entitled "Disputes".

§ 2–3.704–5 Modification of contract clauses.

When a separate negotiated overhead rate agreement is used in accordance with § 2–3.705(c), the clauses in §§ 2–3.704–1 and 2–3.704–2 may be appropriately modified.

§ 2–3.705 [Reserved]

§ 2–3.706 [Reserved]

§ 2–3.707 Cost-sharing rates.

Cost-sharing arrangements are frequently made wherein the cost participation by the contractor is evidenced by an agreement to accept overhead rates which are lower than the anticipated actual overhead rates. In such cases a negotiated fixed-ceiling overhead rate may be used for application prospectively: *Provided*, That in the event overhead rates developed by the cognizant audit activity on the basis of actual allowable costs are less than the negotiated rates, the negotiated rates will be reduced. Where reductions are necessary they will be accomplished in accordance with § 2–56.556 of this chapter. The Government will not be obligated to pay any additional amounts on account of overhead above the negotiated fixed-ceiling rates.

PART 2–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Sec.

AUTHORITY: The provisions of this Part 2–4 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

§ 2–4.000 Scope.

This part sets forth the various regulations applicable to the FAA for certain special types and methods of procurement.

Subpart 2–4.50—Procurement of Research and Development

§ 2–4.5001 Scope.

This subpart sets forth procurement procedures of special application to research and development contracts.

§ 2–4.5002 Definitions.

(a) Agency Order 1800.1, particularly Chapter I thereof, describes and defines various stages and types of research and development procurement. Agency Order 4400.4 defines equipment models and outlines specific responsibility for development and procurement of various types of equipment used in the National Airspace System (NAS).

(b) The following definitions and descriptions contained in Order 4400.4 are for general Agency application:

(1) *Development contract.* A contract for the development of equipment or systems with no provision for quantity production. (This type of contract is used to develop or procure hardware and systems for evaluation and/or consideration for incorporation into the NAS.) Because of the type of models involved, there is no consideration given to production procurement in this type of contract and R&D funds are normally used. Facilities and equipment funds may be used in the case of a development model which is to be installed at a field facility with the expectation of commissioning. Only services having development responsibility may use this type of contract.

(2) *Prototype production contract (two-phase contract).* A contract for the development of equipment with provision for quantity production following acceptance of the prototype. This type of contract is used to procure hardware and systems for incorporation into the NAS after successful completion of a development contract, or where because of relative simplicity no development contract is required. It is a two-phase contract in which the second or production phase is contingent upon the successful completion of the first or prototype phase.

(3) *Production contract.* A contract not involving development and intended for quantity production only. This type of contract is used to procure hardware and systems where neither the developing nor procuring service feels the need for a prototype model. It is particularly appropriate for the simpler types of hardware, the contractor's commercial product, and second or add-on rounds of procurement when complete specifications and/or drawings with parts lists are available. Facilities and equipment funds are applicable and funding actions are initiated by the procuring service.

§ 2–4.5003 General policy.

A fundamental mission of research and development programs is to maintain scientific and technological superiority requisite to promote and advance the effectiveness of air traffic control and safety operations. The accomplishment of this mission requires the broadest possible base of contractor and subcontractor sources including the optimum use of manpower resources. It is essential that the best technical competence be located and fully utilized. The procurement pattern of research and development must be responsive to the achievement of these goals on a timely basis.

§ 2–4.5004 Publicizing procurement actions and expanding sources.

The Agency shall continually search for and develop information on sources (including small business concerns) competent to perform research and development. Advance publicity, including use of the Commerce Business Daily to the fullest extent practicable, shall be given for this purpose. The search should include (a) a review of relevant data or brochures furnished by sources seeking research and development work and (b) a cooperative effort by technical personnel, small business specialists, and contracting officers to obtain information and recommendations with respect to potential sources and to consider the desirability for seeking other sources by publication of proposed procurements, in addition to the synopsis requirement.

§ 2–4.5005 Method of contracting.

In research and development procurements it is generally not possible to formulate precise specifications necessary for formal advertising and, therefore, negotiation is necessary. The inherent difficulties in obtaining research and development by formal advertising are recognized by the exception for negotiation in § 1–3.211 of this title. However, two-step formal advertising as stated in Subpart 1–2.5 of this title may be useful, for example, in the case of an advanced developmental project. While the use of negotiation is the general rule for research and development contract, this does not diminish the obligation to obtain competition to the maximum practicable extent.

§ 2–4.5006 Selection of research and development contractors.

§ 2–4.5006–1 Selection of sources.

(a) *General.* Through its research and development program, the FAA must seek the most advanced scientific knowledge attainable and the best possible equipment and systems that can be devised and produced. This means two things. First, it means seeking the best scientific and technological sources consistent with the demands of the proposed procurement for the best mix of cost, performances and schedules. Second, it means unremitting efforts to increase the number of qualified sources, and to encourage participation by small business concerns, as well as others, in FAA research and development.

(b) *Small business sources.* (1) Contracting officers, technical personnel, and small business specialist shall cooperatively seek and develop information on the technical competence of small business concerns for research and development contracts. Small business specialists shall regularly bring to the attention of contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns that are apparently competent to perform research or development work in fields in which the purchasing activity is interested.

(2) In order to cooperate with the Small Business Administration in carrying out its responsibility of assisting small business concerns to obtain contracts for research and development, contracting officers, technical personnel and small business specialists shall, upon request, provide to authorized SBA representatives through the cognizant Small Business Specialist information necessary to understand the Government's needs concerning research and development programs under consideration for specific future procurement actions.

§ 2–4.5006–2 Solicitation.

In soliciting proposals for the conduct of research and exploratory development, it may be desirable for the Government to furnish prospective contractors with certain information to elaborate on the proposed statement of work, permit optimum response by offerors, and allow more timely and comparable evaluation of proposals by the Government. This information normally should consist of the Government's estimate of the scientific and technical man-effort, or other reasonable indicators, it envisions when it is not possible to describe the magnitude of the proposed work to a sufficiently definitive degree. For example, the estimated effort may be expressed in terms of numbers of man-months or years in particular occupational categories. This technique may be appropriate in cases of contracts for research studies, investigations, or laboratory scale evaluations of feasibility where the Government desires to limit the scope of effort or depth of research. Where the degree of effort type of information is furnished, it should be made clear that such information is advisory only and is not cause for restricting what the contractor believes to be a meritorious technical proposal.

§ 2–4.5006–3 Conduct of negotiations.

The contracting officer should make certain that each prospective contractor fully understands the details of the various phases of the Government's requirements, especially the statement of work. This may be best accomplished by conferences between a prospective contractor, the contracting officer, and appropriate technical personnel, particularly where there is doubt that a work statement is understood or will be interpreted correctly by prospective contractors.

§ 2–4.5006–4 Evaluation of award.

(a) Generally, research and development contracts should be awarded to those organizations, including educational organizations, which have the highest competence in the specific field of science or technology involved. However, awards should not be made for research or development capabilities that exceed those needed for the successful performance of the work.

(b) Before determining the technical competence of prospective contractors, and recommending to the contracting officer the concern or concerns that they consider most technically competent, cognizant technical personnel shall consider the following:

(1) The contractor's understanding of the scope of the work as shown by the scientific or technical approach proposed;

(2) Availability and competence of experienced engineering, scientific, or other technical personnel;

(3) Availability, from any source, of necessary research, test, and production facilities;

(4) Experience or pertinent novel ideas in the specific branch of science or technology involved; and

(5) The contractor's willingness to devote his resource to the prepared work with appropriate diligence.

(c) Agency Order 4400.6 prescribes procedures to be applied when evaluating technical proposals. 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 and past performance in adhering to contract requirements, weighing each factor in accordance with the requirements of the particular procurement. The contracting officer shall notify those sources whose proposal or offers have been determined to be unacceptable of that decision.

§ 2–4.5007 Placing subcontracts for research and development effort.

Since the selection of research or development contractors is based upon seeking the best scientific and technological sources, it is important that the contractor selected on this basis does not in turn subcontract technical or scientific work without prior approval of the contracting officer. The clause prescribed in § 2–7.250–21 of this title for cost-reimbursement type research and development contracts, requires prior written consent of the contracting officer for the placement of any subcontract which has experimental, developmental, or research work as one of its purposes. During the negotiation of the contract, it is imperative that the contracting officer obtain complete information concerning the contractor's plans for subcontracting any portion of the research or development effort.

§ 2–4.5008 Technical reports.

(a) Technical reports are documents written for the permanent record to document results obtained from and recommendations made on scientific and technical activities relating to a single project, task, or contract.

(b) FAA Specification FAA–D–2129, dated June 12, 1964, establishes the requirements for the preparation of technical reports by FAA contractors, and requires that such reports be prepared in accordance therewith. The types of reports shall be as specified in the contract. A contractor may not modify or deviate from the requirements specified in FAA–D–2129 without approval of the contracting officer.

PART 2–7—CONTRACT CLAUSES

Subpart 2–7.1—Fixed-Price Supply Contracts

Sec.

Subpart 2–7.2—Cost Reimbursement Type Supply Contracts

Subpart 2–7.3—Fixed-Price Research and Development Contracts

Subpart 2–7.4—Cost-Reimbursement Type Research and Development Contracts

AUTHORITY: The provisions of this Part 2–7 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

Subpart 2–7.1—Fixed-Price Supply Contracts

§ 2–7.101–8 Assignment of claims.

Where the contract is for transportation services, the clause set forth in § 1–30.703 of this title shall be modified as prescribed in § 2–30.703 of this chapter.

§ 2–7.101–16 Contract Work Hours Standards Act—Overtime Compensation.

When the clause set forth in § 1–12.303 of this title is inserted in the contract, it shall be modified by deleting paragraphs (d) and (e) thereof and substituting the following:

(d) *Subcontracts.* The contractor shall insert paragraphs *a* through *f* of this clause in all subcontracts. The term "Contractor" as used in such paragraphs in any subcontract shall be deemed to refer to the subcontractor except in the phrase "Government Prime Contractor".

(e) *Payrolls and payroll records.* The contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name and address of each such employee, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. The contractor shall make his employment records available for inspection by authorized representatives of the contracting officer and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

(f) *Contract termination-debarment.* A breach of any of the provisions of this clause titled "Contract Work Hours Standards Act—Overtime Compensation" may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

§ 2–7.150 Additional clauses.

Unless otherwise indicated by the specific instructions for their use, the clauses set forth or cited in this section shall be included in fixed-price supply contracts, awarded as a result of formal advertising, for delivery within the United States, its possessions, or Puerto Rico. Additional clauses may be used which are considered by each procurement office to be essential to its operations, and which are not inconsistent with or in limitation of clauses set forth in this Subpart 2–7.1, or Subpart 1–7.1 of this title. Clauses used in FAA contracts which are in addition to those contained in SF–32 are to be entitled "Additional General Provisions—Supply Contracts (supplementing SF–32)". Unless inappropriate, clauses set forth in this Subpart 2–7.1 should be used in negotiated fixed price supply contracts, and contracts for foreign delivery.

§ 2–7.150–1 New materials.

NEW MATERIALS

Unless otherwise specified, all materials, supplies, and equipment to be furnished must be new, unused, of current production, and of the most suitable grade for the purpose intended.

§ 2–7.150–2 Interpretation or modification.

INTERPRETATION OR MODIFICATION

No oral statement of any person, and no written statement of anyone other than the contracting officer or his authorized representative, shall modify or otherwise affect the terms or meaning of the schedule or any contract resulting therefrom. All requests for interpretations or modifications should be made in writing to the contracting officer.

§ 2–7.150–3 Status of performance.

(a) Except as provided in paragraph (b) of this section, insert the following clause:

STATUS OF PERFORMANCE

(a) The contractor shall notify the contracting officer in writing whenever difficulties are encountered which may delay per-

formance under the contract, stating the reason for the delay and the estimated extent thereof. The receipt of such notice shall not, in and of itself, constitute a basis for an extension of delivery schedule, or be construed as a waiver by the Government of any rights or remedies provided by law or under this contract. Failure to give timely notice may preclude later consideration of any request for an extension of contract time.

(Paragraphs (b) and (c) are applicable only when the contract requires fabrication or manufacture, and delivery time for the first production unit exceeds 120 days.)

(b) Within 30 days from the date of contract, the contractor shall furnish in duplicate to the contracting officer, a schedule showing the projected timing for accomplishment of each phase of the work required for each contract item. Each 30 days thereafter the contractor shall furnish, in duplicate, a progress report which shall clearly indicate the current status of each phase of the scheduled work. The schedule and reports required by this section shall be in chart form unless a different manner of presentation is approved by the contracting officer. Any report which indicates a failure to meet the contract schedule, shall be accompanied by a narrative statement of the reasons for delay and the action being taken by the contractor to improve his rate of progress.

(c) The contractor agrees to insert the substance of this clause, including this paragraph, in any subcontract entered into as a result of this contract.

(b) When FAA Form 3651, "Production Progress Report", is required to be submitted by the contractor pursuant to the requirements of § 2–16.859, the above clause shall be modified by deleting the parenthetical sentence preceding paragraph (b) as well as paragraph (b) and substituting the following therefor:

(b) The contractor shall, within 30 days from the date of this contract and each 30 days thereafter until completion of all deliveries under the contract, submit FAA Form 3651, "Production Progress Report", in quadruplicate to the contracting officer. The contracting officer will furnish copies of the form to the contractor. A copy of the form is attached for information purposes.

When the contracting officer determines FAA Form 3651 should be submitted less frequently or more frequently, either 30-day interval specified in the clause may be changed accordingly.

§ 2–7.150–4 Modifications to equal opportunity clause.

MODIFICATIONS TO EQUAL OPPORTUNITY CLAUSE

(a) The clause of this contract titled "Equal Opportunity" (Standard Form 32—General Provisions) is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.

§ 2–7.150–5 Evidence of delivery.

EVIDENCE OF DELIVERY

When the contract delivery point is "f.o.b. origin," evidence of delivery shall be submitted with invoices. In the case of freight or express shipments, this evidence shall be in the form of memorandum copies of Bills of Lading duly receipted by the carrier. In the case of parcel post shipments this evidence shall be by Post Office Certificate of Mailing Form 3817. If the invoice submitted for payment is not accompanied by evidence of delivery, discounts for prompt payment will be computed from date of receipt of such evidence of delivery or the receipt of the contractor's invoice, whichever is later. When the contract delivery point is other than "f.o.b. origin," evidence of delivery will be obtained from the consignee.

§ 2–7.150–6 Patent indemnity.

Except as provided in paragraph (c) of this section, a patent indemnity clause shall be used in contracts exceeding $5,000, in accordance with the following instructions:

(a) An effort shall be made to determine in advance of issuing the Invitation whether the supplies (or such supplies with relatively minor modifications made thereto) normally are or have been sold to the public in the commercial open market. When this determination is affirmative, the following clause entitled "Patent Indemnity (Predetermined)" shall be used. When the contract calls only in part for supplies normally sold to the public in the commercial open market, the items which are excluded shall be listed with a statement that the clause does not apply to the listed items:

PATENT INDEMNITY (PREDETERMINED)

The contractor agrees to indemnify the Government and its officers, agents and employees against liability, including costs, for infringements of any U.S. letters patent (except letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the performance of this contract, or out of the use of or disposal by or for the account of the Government, of supplies furnished hereunder. The foregoing indemnity shall not apply unless the contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply if: (i) The infringement results from compliance with specific written instructions of the contracting officer directing a change in the supplies to be delivered or in the materials or equipment to be used; or (ii) the infringement results from addition to, or change in, such supplies or components furnished which addition or change was made subsequent to delivery or performance by the contractor; or (iii) the claimed infringement is settled without the consent of the contractor, unless required by final decree of a court of competent jurisdiction.

(b) When it cannot be determined in advance of issuing the Invitation that the supplies (or such supplies with relatively minor modifications made thereto) normally are or have been sold to the public in the commercial open market, the above clause (revised as follows and entitled "Patent Indemnity (Not Predetermined)") shall be used. Revision shall consist of changing the period at the end of the first sentence to a comma, and adding the following: "Which supplies or component parts either normally are or have been sold or offered for sale to the public in the commercial open market by any supplier on or before the date set for the opening of bids, or are such supplies or component parts thereof, with relatively minor modifications made thereto."

(c) When it is definitely established that the supplies (or such supplies with relatively minor modifications made thereto) are not sold to the public in the commercial open market, no patent indemnity clause shall be used.

§ 2–7.150–7 Authorization and consent.

AUTHORIZATION AND CONSENT

(This clause does not apply to contracts where both performance and delivery are to be outside the United States, its possessions, or Puerto Rico.)

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract), of any invention described in and covered by a patent of the United States (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract, or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the contractor or the using subcontractor with (a) specifications or written provisions now or hereafter forming a part of this contract, or (b) specific written instructions given by the contracting officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

§ 2–7.150–8 Suspension of work.

The following clause shall be included in contracts only when the contracting officer has determined that its use is appropriate, as in cases where a work stoppage may reasonably be anticipated for reasons such as advancements of the state of the art, production or engineering breakthroughs, or realinement of programs.

SUSPENSION OF WORK

The contracting officer may order the contractor in writing, to suspend all or any part of the work for such period of time as he may determine to be appropriate in the interest of the Government. To the extent such period of time may be unreasonable, the contracting officer shall make an adjustment for any increase in the time or cost of performance of the contract (excluding profit) necessarily caused by the unreasonable period of such suspension, and the contract shall be modified in writing accordingly. No adjustment under this clause shall be made to the extent that performance by the contractor would have been delayed by other causes if the work had not been so suspended. No claim under this clause shall

be allowed unless the claim, in an amount stated, is asserted in writing and made to the contracting officer within thirty (30) days after the termination of such suspension: *Provided*, That if the contracting officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

§ 2–7.150–9 Priorities, allocations, and allotments.

PRIORITIES, ALLOCATIONS, AND ALLOTMENTS

The contractor shall follow the provisions of DMS Reg. 1 and all other applicable regulations and orders of the Business and Defense Services Administration in obtaining controlled materials and other products and materials required for the performance of this contract.

§ 2–7.150–10 Definition of delivery terms.

DEFINITION OF DELIVERY TERMS

The meaning of delivery terms used in this contract such as "f.o.b. origin," "f.o.b. destination," "f.a.s. vessel, port of shipment," and other delivery terms shall be as those terms are defined in 41 CFR 1–19.3.

§ 2–7.150–11 Collection of information.

COLLECTION OF INFORMATION

In performance of this contract the contractor shall not collect information upon identical items from 10 or more persons by use of written report forms, application forms, schedules, questionnaires, or other similar methods, unless authorized in writing to do so by the contracting officer.

§ 2–7.150–12 Government-furnished property.

When property will be furnished by the Government in the performance of the contract, the following clause shall be included in the contract:

GOVERNMENT-FURNISHED PROPERTY

(a) The Government shall deliver to the contractor, for use in connection with and under the terms of this contract, the property described in the schedule or specifications, together with such related data and information as the contractor may request and as may reasonably be required for the intended use of such property. The delivery or performance dates for the supplies or services to be furnished by the contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the contractor at the times stated in the schedule, or, if not so stated, in sufficient time to enable the contractor to meet such delivery or performance dates. If material is not on hand within 5 days prior to the date it is required, immediate notification shall be given in writing to the contracting officer. Failure to give such notice may preclude later consideration of any request for extension of contract time. If such timely notice has been given, and the Government-furnished property is not delivered to the contractor in sufficient time to permit delivery or performance within the schedule established in the contract, the contracting officer shall, upon timely written request made by the contractor, make a determination of the delay occasioned the contractor thereby, and shall adjust the delivery or performance dates or the contract price, or both. In the event the Government-furnished property is received by the contractor in a condition not suitable for the intended use, the contractor shall, upon receipt thereof, notify the contracting officer of such fact and, as directed by the contracting officer, either (i) return such property at the Government's expense or otherwise dispose of the property or (ii) effect repairs or modifications. Upon the completion of (i) or (ii) above, the contracting officer upon written request of the contractor shall equitably adjust the delivery or performance dates or the contract price, or both. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in the delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) By notice in writing the contracting officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, the contracting officer upon written request of the contractor shall equitably adjust the delivery or performance or the contract price, or both.

(c) Title to the Government-furnished property shall remain in the Government. Title to Government-furnished property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-furnished property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty. The contractor agrees to promptly receipt for all Government-furnished property and to maintain a suitable inventory control system acceptable to the contracting officer.

(d) The Government-furnished property shall, unless otherwise provided herein, be used only for the performance of this contract. The contractor shall maintain and administer, in accordance with sound industrial practices, a program for the maintenance, repair, protection and preservation of Government-furnished property.

(e) Unless otherwise provided in this contract, the contractor upon delivery to it of any Government-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of the contract. The contractor shall not be liable for loss or destruction of or damage to Government-furnished property if such loss, destruction or damage is due to causes beyond the control and without the fault or negligence of the contractor.

(f) The Government shall at all times have access to the premises wherein any Government-furnished property is located.

(g) Upon the completion of this contract, or at such earlier date as may be fixed by the contracting officer, the contractor shall submit, in a form acceptable to the contracting officer, inventory schedules covering all items of Government-furnished property not consumed in the performance of this contract (including any resulting scrap), or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government-furnished property as may be directed or authorized by the contracting officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such manner as the contracting officer may direct.

§ 2–7.150–13 Rights in data.

Insert the appropriate clause set forth in § 2–9.5302 or § 2–9.5303 of this chapter, in accordance with the instructions for their use as described in § 2–9.5301–1 of this chapter.

§ 2–7.150–14 Dissemination of contract information.

DISSEMINATION OF CONTRACT INFORMATION

The contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the objectives or results or conclusions made pursuant to performance of this contract, without the prior written consent of the contracting officer. (Two copies of any material proposed to be published or distributed shall be submitted to the contracting officer.)

§ 2–7.150–15 Security requirements.

The following clause shall be included in all contracts which are classified as "Confidential," including "Confidential-Modified Handling Authorized," or higher and in any other contracts the performance of which will require access to such classified information or material. The contracting officer shall notify the Security Division, Office of Compliance and Security, when a contract has been executed which contains a security requirements clause.

SECURITY REQUIREMENTS

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential" including "Confidential-Modified Handling Authorized" or higher.

(b) The Government shall notify the contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254), or other written notification.

(c) To the extent the Government has indicated as of the date of this contract or thereafter indicates security classification under this contract as provided in paragraph (b) above, the contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of: (i) the Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for Safeguarding Classified Information as in effect on date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the contractor's business; and (ii) any amendments to said Manual made after the date of this contract, notice of which has been furnished to the contractor by the Security Office of the Military Department having security cognizance over the facility.

(d) Representatives of the Military Department having security cognizance over the facility and representatives of the Federal Aviation Agency shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the contractor is not complying with the security requirements of this contract, the contractor shall be informed in writing by the Security Office of the cognizant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) If subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause and the security costs under this contract are thereby increased or decreased, the contract price shall be subject to an equitable

adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause in this contract.

(f) The contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding the last sentence of paragraph (e) of this clause.

(g) The contractor also agrees that it shall determine that any subcontractor proposed by it for the furnishing of supplies and services which will involve access to classified information in the contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified information.

§ 2-7.150-16 Termination for convenience of the Government.

(a) In contracts exceeding $2,500 but not in excess of $10,000, the short-form clause set forth in § 1-8.705-1 of this title shall be used.

(b) In contracts exceeding $10,000, the clause set forth in § 1-8.701 of this title shall be used.

§ 2-7.150-17 Renegotiation.

(a) Except as provided in paragraphs (b) and (c) of this section, insert the following clause:

RENEGOTIATION

To the extent required by law, this contract is subject to the Renegotiation Act of 1951 (50 U.S.C. App. 1211, et seq), as amended, and to any subsequent act of Congress providing for the renegotiation of contracts. Nothing contained in this clause shall impose any renegotiation obligation with respect to this contract or any subcontract hereunder which is not imposed by an act of Congress heretofore or hereafter enacted. Subject to the foregoing, this contract shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951, and by any such other act, without subsequent contract amendment specifically incorporating such provisions.

The contractor agrees to insert the provisions of this clause, including this paragraph, in all subcontracts, as that term is defined in Section 103g of the Renegotiation Act of 1951, as amended.

(b) The Renegotiation clause is not required in

(1) Contracts with a State, Territory, possession, foreign government, or agency or subdivision thereof;

(2) Contracts or subcontracts for an agricultural commodity in its raw or natural state, or in its first form or state in which it is customarily sold;

(3) Contracts or subcontracts for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber which has not been treated beyond its first form or state suitable for industrial use;

(4) Contracts or subcontracts with a common carrier for transportation or with a public utility for gas, electric energy, water, communications, or transportation if made at published rates regulated by a public body or at unregulated rates substantially as favorable to users as are regulated rates;

(5) Contracts or subcontracts with tax-exempt charitable, religious, and educational institutions, or for the prevention of cruelty to children or animals, providing the income from the contract or subcontract is not taxable as unrelated business net income;

(6) Contracts which the Renegotiation Board determines to have no direct and immediate connection with the national defense; examples—building maintenance and repair, laundry and cleaning services, and removal of waste material;

(7) Subcontracts under exempt contracts and subcontracts.

(c) Renegotiation is a complex subject. It is not therefore practicable to set forth in detail the many varied mandatory and permissive exemptions from the Renegotiation Act (for example, certain contracts for "standard commercial articles" and "standard commercial services" may not be subject to the Act). In any case where there is any doubt as to whether the contract is exempt from renegotiation, the clause shall be inserted in the contract.

§ 2-7.150-18 Loss or damage to leased aircraft.

When the contract is for the lease of aircraft, the clause set forth in § 2-10.401 of this chapter shall be used under the conditions described therein.

§ 2-7.150-19 Price redetermination (prospective).

When it is determined, in accordance with §§ 1-3.404-5 of this title and 2-3.404-5 of this chapter to use a fixed-price contract providing for prospective redetermination of price, the following clause shall be included in the contract.

PRICE REDETERMINATION

(a) *General.* The unit prices and the total price set forth in this contract shall be periodically redetermined in accordance with the provisions of this clause.[1] The prices for supplies delivered and services performed prior to the first effective date of price redetermination shall remain fixed.

(b) *Price redetermination periods.* For the purpose of price redetermination the performance of this contract is divided into successive periods. The first period shall extend from the date of this contract to ____,[2] and the second and each succeeding period shall extend for ____ (____) months from the end of the last preceding period, except that the final period may be varied by agreement of the parties. The first day of the second and each succeeding period shall be the effective date of price redetermination for the period.

(c) *Price redetermination.* Not more than ____[3] days nor less than ____[3] days before the end of each redetermination period, except the last, and as otherwise provided in (iii) below, the Contractor shall submit:

(i) Proposed prices for supplies which may be delivered or services which may be performed in the next succeeding period under the contract, together with:

(A) An estimate and breakdown of the costs of such supplies or services on DD Form 784 or in any other form on which the parties may agree;

(B) Sufficient data to support the accuracy and reliability of such estimate; and

(C) An explanation of the differences between such estimate and the original (or last preceding) estimate for the same supplies or services.

(ii) A statement of all costs incurred in the performance of this contract through the end of the ____[4] month prior to the date of the submission of proposed prices, on DD Form 784 or in any other form on which the parties may agree, together with sufficient supporting data to disclose unit costs and cost trends for:

(A) Supplies delivered and services performed, and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary).

(iii) Supplemental statements of costs incurred subsequent to the date set forth in (ii) above for:

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necesary);

as and to the extent that such information becomes available prior to the conclusion of negotiations on redetermined prices; and

(iv) Any other relevant data which may reasonably be required by the contracting officer.

Upon receipt of the data required by this subparagraph (c), the contractor and the contracting officer shall promptly negotiate to redetermine fair and reasonable contract prices for supplies which may be delivered and services which may be performed in the period following the effective date of price redetermination. Where the contractor fails to submit the data as required above within the time specified, payments under this contract may be suspended by the contracting officer until the data are furnished.

(d) *Subcontracts.* No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the contractor shall not, without the prior written consent of the contracting officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve an estimated amount in excess of $10,000, including the fee. The contracting officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the contracting officer as required by this paragraph (d).

(e) *Contract modifications.* Each negotiated redetermination of prices shall be evidenced by a modification to this contract, signed by the contractor and the contracting officer, setting forth the redetermined prices for supplies delivered and services performed hereunder during the applicable price redetermination period.

(f) *Adjustment of payments.* Pending execution of the contract modification referred to in paragraph (e) above, the contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices

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[1] Where a ceiling is applicable, the following proviso shall be added "provided that in no event shall the total amount paid under this contract exceed ____ dollars ($____)." Alternatively, the contract may provide ceiling amounts for each or any of the price redeterminations under the contract.

[2] This point may be expressed in terms of units delivered, or a calendar date, but in either case the period shall generally end on the last day of a month.

[3] Insert in the blanks numbers of days so that the contractor's submission will be late enough to reflect recent cost experience (having in mind the contractor's accounting system), but early enough to review, audit if necessary, and negotiate prior to the start of the prospective period.

[4] Insert the word "first" except the word "second" may be inserted if necessary to achieve compatability with the contractor's accounting system.

shall be the prices set forth in this contract; provided that, if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (g)(3) below, the parties may agree to greater or lesser billing prices, which shall be reflected in an amendment or supplemental agreement to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the redetermination of prices under this clause. After execution of the contract modification referred to in paragraph (e) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed prices, and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) *Limitation on payments.* (1) This paragraph (g) shall apply only during a period for which firm prices have not been established.

(2) Within 45 days after the end of each quarter of the contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the contractor shall submit to the contracting officer a statement cumulative from the inception of the contract, setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g), Limitation on Payments), which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments); provided that such statement need not be submitted for any quarter for which either no costs are to be reported under (ii) above or revised billing prices have been established in accordance with paragraph (g) above and do not exceed the existing contract price, the contractor's price-redetermination offer, or a price based on the most recent quarterly statement, whichever is least.

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2)(iv) above exceeds the sum of (2)(i), (ii), and (iii) above, the contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of program payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and reflect the position of the contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified as outlined in (i) above.

(h) *Disagreements.* If the contractor and the contracting officer fail to agree upon redetermined prices for any price redetermination period within sixty (60) [5] days after the date on which the data required by (c) above is to be filed, or within such further time as may be agreed upon by the parties, the failure to agree upon redetermined prices shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the contracting officer shall promptly issue a decision thereunder. For the purpose of (e), (f), and (g) above, and pending final settlement of the disagreement on appeal, or by failure to appeal, or by agreement, such a decision shall be treated as an executed contract modification. Pending such final settlement, price redetermination for subsequent periods, if any, shall continue to be negotiated as hereinbefore provided.

(i) *Termination.* If this contract is terminated, prices shall continue to be established pursuant to this clause (i) for completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, for supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

§ 2-7.150-20 Price redetermination (retroactive).

When it is determined, in accordance with § 1-3.404-7 of this title, to use a fixed-price contract providing for retroactive redetermination of price, the following clause shall be included in the contract.

PRICE REDETERMINATION

(a) *General.* The unit prices and the total price set forth in this contract shall be redetermined in accordance with the provisions of this clause: *Provided,* That in no event shall the total amount paid under this contract exceed _____ dollars ($_____).

(b) *Price redetermination.* Within _____ (_____) days after delivery of all supplies to be delivered and completion of all services to be performed under this contract, the contractor shall submit (i) proposed prices, (ii) a statement of all costs incurred in the performance of this contract, on DD Form 784 or on any other form on which the parties may agree, and (iii) any other relevant data which may reasonably be required by the contracting officer. Upon receipt of the required data, the contractor and the contracting officer shall promptly negotiate to redetermine fair and reasonable contract prices for supplies delivered and services performed by the contractor under this contract. Where the contractor fails to submit the required data within the time specified, payment of all invoices may be suspended by the contracting officer until the data are furnished.

(c) *Subcontracts.* No subcontract under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the contractor shall not, without the prior written consent of the contracting officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve an estimated amount in excess of $10,000 including the fee. The contracting officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the contracting officer as required by this paragraph (c).

(d) *Contract modification.* The negotiated redetermination of price shall be evidenced by a modification to this contract, signed by the contractor and the contracting officer, setting forth the redetermined prices which shall apply to supplies delivered and to services performed by the contractor hereunder.

(e) *Adjustment of payments.* Pending execution of the contract modification referred to in paragraph (d) above, the contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the prices set forth in this contract: *Provided,* That, if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (f)(3) below, the parties may agree to greater or lesser billing prices, which shall be reflected in an amendment or supplemental agreement to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the redetermination of prices under this clause. After execution of the contract modification referred to in paragraph (d) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed prices, and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(f) *Limitation on payments.* (1) This paragraph (f) shall apply until final price redetermination to the full extent permitted by this contract.

(2) Within 45 days after the end of each quarter of the contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the contractor shall submit to the contracting officer a statement cumulative from the inception of the contract, setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established.

(iii) That portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (f), Limitation on Payments), which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of 2(iv) above exceeds the sum of (2) (i), (ii), and (iii) above, the contractor shall immediatedly refund or credit to the Government

[5] This period may be varied by the parties at the time of negotiating the contract.

against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any applicable tax credits under section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and reflect the position of the contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified as outlined in (i) above.

(g) *Disagreements.* If the contractor and the contracting officer fail to agree upon redetermined prices within sixty (60)[1] days after the date on which the data required by (b) above is to be filed, or within such further time as may be agreed upon by the parties, the failure to agree upon redetermined prices shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the contracting officer shall promptly issue a decision thereunder. For the purpose of paragraphs (d), (e), and (f) above, and pending final settlement of the disagreement on appeal, or by failure to appeal, or by agreement, such a decision shall be treated as an executed contract modification.

(h) *Termination.* If this contract is terminated prior to price redetermination, prices shall be established pursuant to this clause for completed supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

§ 2–7.150–21 Gratuities.

GRATUITIES

(a) The Government may, by written notice to the contractor, terminate the right of the contractor to proceed under this contract if it is found, after notice and hearing, by the Administrator or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the contractor, or any agent or representative of the contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending; or the making of any determinations with respect to the performing of such contract; provided, that the existence of the facts upon which the Administrator or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Administrator or his duly authorized representative) which shall be not less than three nor more than ten times the cost incurred by the contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

§ 2–7.150–22 Value engineering incentive.

When it is determined that a value engineering incentive feature is appropriate for inclusion in a firm fixed-price or fixed-price contract with escalation, insert the clause set forth below.

VALUE ENGINEERING INCENTIVE

(a) The contractor may submit cost reduction proposals for changing the drawings, designs, specifications, or other requirements of this contract. Any such proposal shall be submitted in such form as the contracting officer may prescribe. The cost reduction proposals contemplated by this clause are proposals based upon sound study by the contractor that:

(i) Would result in less costly items than those specified herein without impairing any of their essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance, and necessary standardized features, and

(ii) Would require, in order to be applied to this contract, a change order to this contract.

(b) Cost reduction proposals as defined herein will be processed expeditiously and in the same manner as prescribed for any other proposal which would likewise necessitate issuance of a contract change order. As a minimum, the following information will be submitted by the contractor with each proposal:

(i) A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each;

(ii) An itemization of the requirements of the contract which must be changed if the proposal is adopted and a recommendation as to how to make each such change (e.g., suggested revision);

(iii) An estimate of the reduction in contract performance costs that will result from adoption of the proposal taking into account the costs of implementation by the contractor, and the basis for the estimate;

(iv) A prediction of any effects the proposed change would have on other costs to the Government, such as Government-furnished property costs, costs of related items, and costs of maintenance and operation;

(v) A statement of the time by which a change order adopting the proposal must be issued so as to obtain the maximum cost reduction during the remainder of the contract, noting any effect on maintaining the contract delivery schedule; and

(vi) The dates of any previous submissions of the proposal, the numbers of any Government contracts under which submitted, and the previous actions by the Government, if known.

(c) The Government shall not be liable for any delays in acting upon, or for any failure to act upon, any proposal submitted pursuant to this clause. The decision of the contracting officer as to the acceptance of any such proposal under this contract shall be final and shall not be subject to the "Disputes" clause of this contract. Unless and until a change order applies such a proposal to this contract, the contractor shall remain obligated to perform in accordance with its existing terms. The contracting officer may accept in whole or in part any cost reduction proposal submitted pursuant to this clause by issuing a change order which will identify the cost reduction proposal on which it is based.

(d) If a cost reduction proposal submitted pursuant to this clause is accepted under this contract, an equitable adjustment in the contract price and in any other affected provisions of this contract shall be made in accordance with this clause and the "Changes" clause of this contract. If the equitable adjustment involves a reduction in the contract price, it shall be established by determining the amount of the total estimated decrease in the contractor's cost of performance resulting from the adoption of the cost reduction proposal, taking into account the cost of implementing the change by the contractor, and reducing the contract price by ____ percent (____ percent) of such decrease. If the equitable adjustment involves an increase in the contract price, such increase shall be established under the "Change" clause rather than under this clause. The resulting contract modification will state that it is made pursuant to this clause.

(e) Cost reduction proposals submitted under the provisions of any other contract also may be submitted under this contract for consideration pursuant to the terms of this clause.

(f) The contractor may restrict the Government's right to use any sheet of a value engineering proposal or of the supporting data, submitted pursuant to this clause, in accordance with the terms of the following legend if it is marked on such sheet.

This data furnished pursuant to the Value Engineering Incentive clause of Contract 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 a value engineering proposal submitted under said clause. This restriction does not limit the Government's right to use information contained in this data if it is or has been obtained from another source, or is otherwise available, without limitations. If such a proposal is accepted by the Government under said contract after the use of this data in such an evaluation, the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such proposal as accepted, in any manner and for any purpose whatsoever, and have others so do. In the event of acceptance of a value engineering proposal, the contractor hereby grants to the Government all rights to use, duplicate or disclose, in whole or part, in any manner and for any purpose whatsoever, and to have or permit others to do so, any data reasonably necessary to fully utilize such proposal.

§ 2–7.150–23 Workmanship; security investigation of contractor personnel.

(a) *General.* When contractor employees such as those engaged in janitorial, cafeteria, or heating and air-conditioning maintenance work are to perform the services at an Agency facility, the clause set forth in paragraph (b) of this section and a clause reading substantially as set forth in paragraph (c) of this section shall be included in the contract. (Reference: Agency Order 1600.14 dated Feb. 2, 1966.)

[1] This period may be varied by the parties at the time of negotiating the contract.

(b) *Workmanship clause.*

WORKMANSHIP

All work under this contract shall be performed in a skillful and workmanlike manner. The contracting officer may, in writing, require the contractor to remove from work any employee the contracting officer deems incompetent, careless, or otherwise objectionable.

(c) *Security investigation of contractor personnel clause.*

SECURITY INVESTIGATION OF CONTRACTOR PERSONNEL

The contracting officer may, at any time under this contract, require a security investigation of contractor personnel. When notified of such a requirement, the contractor shall complete for each employee having a requirement to visit and/or work at an FAA facility such security forms as are furnished by the contracting officer.

§ 2–7.150–24 Refund of royalties.

The contract clause set forth in § 2–9.5114 of this chapter may be included in negotiated fixed-price type contracts under the circumstances described therein.

§ 2–7.150–25 Background patents (license).

If required by the instructions for its use in § 2–9.5103 of this chapter, insert the clause set forth in § 2–9.5103–1 of this chapter.

§ 2–7.150–26 Equal opportunity representation.

Pending the revision of Standard Form 33, insert the following clause in the schedule of Standard Form 33:

EQUAL OPPORTUNITY REPRESENTATION

The following changes are made in the Equal Opportunity Representation on page 2 of Standard Form 33:

(i) After the reference to "Executive Order 10925" add the words "or the clause contained in section 201 of Executive Order No. 11114".

(ii) At the end of the sentence, add "(The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.)"

§ 2–7.151 Additional clauses for AID procurements.

The clauses set forth in this section shall be used in fixed-price supply contracts entered into by formal advertising and, unless inappropriate, in negotiated contracts (other than small purchases as defined in Subpart 1–3.6 of this title), when the procurement is being made on behalf of the Agency for International Development.

§ 2–7.151–1 Limitations on source.

LIMITATIONS ON SOURCE

In accordance with directives of the Agency for International Development, upon whose behalf this procurement is made, bids or offers under this invitation or solicitation for offers are restricted to those offering commodities from a source not precluded under the AID Geographic Code as defined hereunder and cited in the Invitation for Bids or Solicitation for Offers.

(a) *Worldwide—AID Geographic Code 899.* Any country in the world except:

Albania, Bulgaria, China, excluding Taiwan (Formosa), but including Manchuria, Inner Mongolia, the provinces of Tsinghai and Sikang, Sinkiang, Tibet, the former Kwantung Leased Territory, the present Port Arthur Naval Base Area and Liaoning Province; Cuba; Czechoslovakia; East Germany (including the Soviet Sector of Berlin); Estonia; Hungary; Latvia; Lithuania; North Korea; North Vietnam; Outer Mongolia; Poland and Danzig; Rumania; and Union of Soviet Socialist Republics.

(b) *Limited Worldwide—AID Geographic Code 898.* Any country in the world except:

(1) The countries listed under Worldwide (AID Code 899) and

(2) The countries listed below:

Australia.	Luxembourg.
Austria.	Monaco.
Belgium.	Netherlands.
Canada.	New Zealand.
Denmark.	Norway.
France.	Union of South Africa.
Germany (Federal Republic).	Sweden.
Hong Kong.	Switzerland.
Italy.	United Kingdom.
Japan.	

(c) *Limited Worldwide—AID Geographic Code 901.* Any country in the world except:

(1) The countries listed under Worldwide (AID Code 899) and

(2) The countries listed below:

Australia.	Monaco.
Austria.	Netherlands.
Belgium.	New Zealand.
Canada.	Norway.
Denmark.	Union of South Africa.
France.	Spain.
Germany (Federal Republic).	Sweden.
Italy.	Switzerland.
Japan.	United Kingdom.
Luxembourg.	

(d) *United States of America and Areas of Associated Sovereignty—AID Geographic Code 000.* Includes the United States of America, its possessions, Puerto Rico, and the Trust Territories.

§ 2–7.151–2 Geographic source restriction.

GEOGRAPHIC SOURCE RESTRICTION

(a) For the purpose of this provision:

(1) "Component" means those articles, materials, and supplies which are directly incorporated in the commodity.

(2) "Commodity" means an article, or item of material or supply, which is to be procured under this contract.

(3) "Source" means the country or area from which a commodity is shipped to the cooperating country. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, source shall mean the country or area from which the commodity was shipped to the free port or bonded warehouse.

(b) By submission of a bid or offer, the bidder or offeror certifies that:

(1) The source of any commodity supplied under any resultant contract will be a country or area authorized by the AID Geographic Code specified in the Invitation for Bids or Solicitation for Offers;

(2) Such commodity will be mined, grown, or produced through manufacture, assembly, or processing in an authorized source country (the AID Geographic Code specified in the Invitation for Bids or Solicitation for Offers); and

(3) A produced commodity does not contain any components (A) imported in contravention of Foreign Assets Control (FAC) or Cuban Assets Control (CAC) Regulations, (B) mined, grown, or produced in countries not included in AID Geographic Code 899, or (C) mined, grown or produced in free world countries (AID Geographic Code 899) other than authorized source countries, and acquired by the producer in the form in which imported, the total cost of which (delivered to the point of production) amounts to more than ten percent (unless otherwise specified in the Invitation for Bids or Solicitation for Offers) of the lowest price (excluding the cost of ocean transportation and insurance) at which the bidder is offering the commodity pursuant to this Invitation for Bids or Solicitation for Offers, or if it does exceed such percentage, the commodity has been or is being commercially exported by the bidder or offeror under AID financing and meets the imported component limitation currently in effect under such financing.

Subpart 2–7.2—Cost Reimbursement Type Supply Contracts

§ 2–7.200 Scope of subpart.

This subpart sets forth or cites contract clauses to be used in cost-reimbursement type supply contracts and where necessary provides instructions for their use.

§ 2–7.250 Clauses.

The following clauses shall, unless otherwise indicated by the specific instructions for their use, be inserted in all cost reimbursement type contracts calling for delivery within the United States, its possessions, or Puerto Rico and, unless inappropriate, in cost-reimbursement supply type contracts calling for foreign delivery.

§ 2–7.250–1 Definitions.

Insert the clause set forth in § 1–7.101–1 and any additional definitions that are not inconsistent with the definitions in the cited clause.

§ 2–7.250–2 Changes.

The contracting officer if he considers it desirable may change the period of 30 days for the assertion of a claim to any number of days up to, but not to exceed, 60 days.

CHANGES

The contracting officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) Drawings, designs, or specifications, (ii) method of shipment or packing; (iii) place of inspection, delivery or acceptance, and (iv) the amount of Government-furnished property. If any such changes cause an increase or decrease in the estimated cost of, or the time required for, performance of this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the estimated cost or delivery schedule, or both, (ii) in the amount of any fee to be paid to the contractor and/or (iii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the contractor of the notification of change: *Provided, however,* That the contracting officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. 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." However, nothing in

this clause shall excuse the contractor from proceeding with the contract as changed.

§ 2–7.250–3 Limitation of cost.

LIMITATION OF COST

(a) It is estimated that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will not exceed the estimated cost set forth in the schedule, and the contractor agrees to use its best efforts to perform the work specified in the schedule, and all obligations under this contract within such estimated cost. If at any time the contractor has reason to believe that the costs which it expects to incur in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost then set forth in the schedule, or if at any time, the contractor has reason to believe that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will be substantially greater or less than the then estimated cost thereof, the contractor shall immediately notify the contracting officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the contractor for costs incurred in excess of the estimated cost set forth in the schedule, and the contractor shall not be obligated to continue performance under the contract or to incur costs in excess of the estimated cost set forth in the schedule, unless and until the contracting officer shall have notified the contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost, which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in the schedule has been increased, any costs incurred by the contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

(c) If, (1) the contractor stops performance before completion of all work hereunder because it has incurred costs in the amount of or in excess of the estimated contract cost set forth in the schedule, and (2) the contracting officer elects not to increase such estimated cost, the contractor's fixed fee will be equitably reduced to reflect the actual amount of work performed as compared with the full amount of the work required in the contract. In the event of failure to agree as to the amount of such reduction, the contracting officer shall determine the amount, subject to the right of the contractor to appeal therefrom pursuant to the clause in the contract entitled "Disputes." This paragraph shall not, in any way, limit the rights of the Government under the clause in the contract entitled "Termination for Default or for Convenience of the Government."

§ 2–7.250–4 Allowable cost, fixed fee and payment.

ALLOWABLE COST, FIXED FEE, AND PAYMENT

(a) For the performance of this contract, the Government shall pay to the contractor:

(1) The cost thereof (hereinafter referred to as "allowable cost") determined by the contracting officer to be allowable in accordance with—

(i) Subpart 1–15.2 of Part 1–15 of the Federal Procurement Regulations as in effect on the date of this contract; and

(ii) The terms of this contract; and

(2) Such fixed fee, if any, as may be provided for in the Schedule.

(b) Once each month (or at more frequent intervals, if approved by the contracting officer) the contractor may submit to an authorized representative of the contracting officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost incurred by the contractor in the performance of this contract and claimed to constitute allowable cost.

(c) Promptly after receipt of each invoice or voucher and statement of cost the Government shall, except as otherwise provided in this contract, subject to the provisions of (d) below, make payment thereon as approved by the contracting officer of allowable cost incurred. Payment of the fixed fee, if any, shall be made to the contractor as specified in the Schedule: *Provided, however,* That after payment of 85 percent of the fixed fee set forth in the schedule, further payment on account of the fixed fee shall be withheld until a reserve of either 15 percent of the total fixed fee, or $100,000, whichever is less, shall have been set aside.

(d) At any time or times prior to final payment under this contract the contracting officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher, which are found by the contracting officer on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments on preceding invoices or vouchers.

(e) On receipt and approval of the invoice or voucher designated by the contractor as the "Completion invoice" or "Completion voucher" and upon compliance by the contractor with all the provisions of this contract (including, without limitation, the provisions relating to patents and the provisions of (f) below), the Government shall promptly pay to the contractor any balance of allowable cost, and any part of the fixed fee which has been withheld pursuant to (c) above or otherwise not paid to the contractor. The completion invoice or voucher shall be submitted by the contractor promptly following completion of the work under this contract but in no event later than 1 year (or such longer period as the contracting officer may in his discretion approve in writing) from the date of such completion.

(f) The contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) according to or received by the contractor or any assignee under this contract shall be paid by the contractor to the Government, to the extent that they are properly allocable to costs for which the contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the contracting officer. Prior to final payment under this contract, the contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract, shall execute and deliver:

(1) An assignment to the Government, in form and substance satisfactory to the contracting officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the contractor to third parties arising out of the performance of this contract: *Provided,* That such claims are not known to the contractor on the date of the execution of the release: *And provided further,* That the contractor gives notice of such claims in writing to the contracting officer not more than 6 years after the date of the release or the date of any notice to the contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the contractor under the provisions of this contract relating to patents.

(g) Any cost incurred by the contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the contractor at his expense or without cost to the Government.

§ 2–7.250–5 Assignment of claims.

Insert the clause set forth in § 1–30.703 of this title. However, the "no set-off" provision should not be included in negotiated procurements where the contractor is indebted to the Government and its omission appears appropriate to protect the interests of the Government.

§ 2–7.250–6 Examination of records.

EXAMINATION OF RECORDS

(a) (1) The contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this contract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract.

(2) The contractor agrees to make available at the office of the contractor at all reasonable times during the period set forth in subparagraph (4) below any of the records for inspection, audit or reproduction by any authorized representative of the Comptroller General.

(3) In the event that the Comptroller General or any of his duly authorized representatives determines that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the contractor, the contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within 2 years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the contracting officer such documentary evidence in support of transportation costs as may be required by the Comptroller or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the contractor shall preserve and make available his records (i) for a period of 3 years from the date of final payment under this contract, and (ii) for such longer period, if any, as is required by applicable statute, by any other clause of this contract, or by (a) or (b) below.

(a) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(b) Records which relate to (i) appeals under the Disputes clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) cost and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall be retained by the contractor until such appeals, litigation, claims, or exceptions have been disposed of.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in subparagraph (4)(b) above, the contractor may in fulfillment of his obligation to retain his records as required by this clause substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of 2 years following the last day of the month of reimbursement to the contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the contracting officer with the concurrence of the Comptroller General or his duly authorized representative.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material, or labor-hour basis.

(b) The contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a)(6) above, a provision to the effect that the subcontractor agrees that the Comptroller General or any of his duly authorized representatives, shall, until the expiration of 3 years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract", as used in this paragraph (b) only excludes (i) purchase orders not exceeding $2,500 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

§ 2–7.250–7 Termination for default or for convenience of the Government.

Insert the clause set forth in § 1–8.702 of this title. However, if the contract as originally executed provides for cost-sharing by the contractor, or by subsequent modification is deemed possible of being amended to so provide for cost-sharing, the clause shall be revised to establish the basis on which costs will be shared in the event of termination by the Government for (a) convenience or (b) default.

§ 2–7.250–8 Disputes.

Insert the clause set forth in § 1–7.101–12 of this title.

§ 2–7.250–9 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 1–7.101–13 of this title under the condition contained therein.

§ 2–7.250–10 Buy American Act.

Insert the clause set forth in § 1–6.104–5 of this title under the conditions contained therein.

§ 2–7.250–11 Convict labor.

Insert the clause set forth in § 1–12.203 of this title under the conditions contained in § 1–12.202.

§ 2–7.250–12 Contract Work Hours Standards Act—Overtime Compensation.

Insert the clause set forth in § 1–12.303 of this title (modified as set forth in § 2–7.101–16) under the conditions contained in § 1–12.302 of this title.

§ 2–7.250–13 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 1–12.605 of this title under the conditions contained in § 1–12.602 of this title.

§ 2–7.250–14 Equal opportunity.

Insert the clause set forth in § 1–12.803–2 of this title.

§ 2–7.250–15 Officials not to benefit.

Insert the clause set forth in § 1–7.101–19 of this title.

§ 2–7.250–16 Covenant against contingent fees.

Insert the clause set forth in § 1–1.503 of this title under the conditions contained in § 1–1.501 of this title.

§ 2–7.250–17 Utilization of small business concerns.

Insert the clause set forth in § 1–7.710–3(a) of this title under the conditions contained therein.

§ 2–7.250–18 Small business subcontracting program.

When the criteria specified in § 1–1.710–3(b) of this title are met, insert the clause contained therein.

§ 2–7.250–19 Utilization of concerns in labor surplus areas.

Insert the clause set forth in § 1–1.805–3(a) of this title under the conditions contained therein.

§ 2–7.250–20 Labor surplus area subcontracting program.

When the criteria specified in § 1–1.805–3(b) of this title are met, insert the clause contained therein.

§ 2–7.250–21 Subcontracts.

SUBCONTRACTS

(a) The contractor shall give advance notification to the contracting officer of any proposed subcontract hereunder which (i) is cost-reimbursement type, time and materials, or labor-hour, or (ii) is fixed-price type and exceeds in dollar amount either $25,000 or 5 percent of the total estimated cost of this contract.

(b) In the cases of a proposed subcontract which (i) is cost-reimbursement type, time and materials, or labor-hour and which would involve an estimated amount in excess of $10,000 including any fee, or (ii) is proposed to exceed $100,000; or (iii) is one of a number of subcontracts under this contract with a single subcontractor for the same or related supplies or services which in the aggregate are expected to exceed $100,000; the advance notification required by (a) above shall include:

(1) A description of the supplies or services to be called for by the subcontract;

(2) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained;

(3) The proposed subcontract price together with the contractor's cost or price analysis thereof;

(4) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data when such data and certificate are required by other provisions of this contract, to be obtained from the subcontractor; and

(5) Identification of the type of contract to be used.

(c) The contractor shall not without the prior written consent of the contracting officer place any subcontract which (i) is cost-reimbursement type, time and materials, or labor-hour, or (ii) is fixed-price type and exceed in dollar amount either $25,000 or 5 percent of the total estimated cost of this contract, or (iii) provides for the fabrication, purchase, rental, installation, or other acquisition of any item of industrial facilities, or of special tooling having a value in excess of $1,000 or (iv) has experimental developmental, or research work as one of its purposes. The contracting officer may, in his discretion, ratify in writing any such subcontract. Such action shall constitute the consent of the contracting officer as required by this paragraph (c).

(d) The contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The contracting officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the contracting officer obtained as required by this clause shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

(f) The contractor shall give the contracting officer immediate notice in writing of any action or suit filed, and prompt notice of any claim made against the contractor by any subcontractor or vendor which, in the opinion of the contractor, may result in litigation related in any way to this contract with respect to which the contractor may be entitled to reimbursement from the Government.

§ 2–7.250–22 Excusable delays.

Insert the clause set forth in § 1–8.708 of this title.

§ 2–7.250–23 Inspection and correction of defects.

INSPECTION AND CORRECTION OF DEFECTS

(a) All work under this contract shall be subject to inspection and test by the Government (to the extent practicable) at all times (including the period of performance) and places, and in any event prior to acceptance. The contractor shall provide and maintain an inspection system acceptable to the Government covering the work hereunder. The Government, through any authorized representative, may inspect the plant or plants of the contractor or of any of its subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of the contractor or a subcontractor, the contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. Except as other-

wise provided in this contract, final inspection and acceptance shall be made at the place of delivery as promptly as practicable after delivery and shall be deemed to have been made no later than 90 days after the date of such delivery, if acceptable has not been made earlier within such period.

(b) At any time during performance of this contract, but not later than 6 months (or such other period as may be provided in the schedule) after acceptance of all of the end items (other than designs, drawings, or reports) to be delivered under this contract, the Government may require the contractor to remedy by correction or replacement, as directed by the contracting officer, any failure by the contractor to comply with the requirements of this contract. Any time devoted to such correction or replacement shall not be included in the computation of the period of time specified in the preceding sentence, except as provided in (d) below. Except as otherwise provided in paragraph (c) below, the allowability of the cost of any such replacement or correction shall be determined as provided in the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment," but no additional fee shall be payable with respect thereto. Corrected articles shall not be tendered again for acceptance unless the former tender and the requirement of correction is disclosed. If the contractor fails to proceed with reasonable promptness to perform such replacement or correction, the Government (i) may buy contract or otherwise perform such replacement or correction and charge to the contractor any increased cost occasioned the Government thereby, or may reduce any fixed fee payable under this contract (or require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (ii) in the case of articles not delivered, may require the delivery of such articles, and shall have the right to reduce any fixed fee payable under this contract (or to require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (iii) may terminate this contract for default. Failure to agree to the amount of any such increased cost to be charged to the contractor or to such reduction in, or repayment of, the fixed fee shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) Notwithstanding the provisions of paragraph (b) above, the Government may at any time require the contractor to remedy by correction or replacement, without cost to the Government, any failure by the contractor to comply with the requirements of this contract if such failure is due to fraud, lack of good faith or willful misconduct on the part of any of the contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the contractor's business, or (ii) all or substantially all of the contractor's operations at any one plant or separate location in which this contract is being performed, or (iii) a separate and complete major industrial operation in connection with the performance of this contract. The Government may at any time also require the contractor to remedy by correction or replacement, without cost to the Government, any such failure caused by one or more individual employees selected or retained by the contractor after any such supervisory personnel has reasonable grounds to believe that any such employee is habitually careless or otherwise unqualified.

(d) The provisions of paragraph (b) above shall apply to any corrected or replacement end item or component until 6 months after its acceptance.

(e) The contractor shall make its records of all inspection work available to the Government during the performance of this contract and for such longer period as may be specified in this contract.

§ 2–7.250–24 Insurance—liability to third persons.

INSURANCE—LIABILITY TO THIRD PERSONS

(a) The contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as the contracting officer may from time to time require with respect to performance under this contract: *Provided*, That the contractor may, with the approval of the Contracting Officer, maintain a self-insurance program: *And provided further*, That with respect to workmen's compensation the contractor is qualified pursuant to statutory authority. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amount, and for such periods of time, as the contracting officer may from time to time require or approve, and with insurers approved by the contracting officer.

(b) The contractor agrees, to the extent and in the manner required by the contracting officer, to submit for the approval of the contracting officer any other insurance maintained by the contractor in connection with the performance of this contract and for which the contractor seeks reimbursement hereunder.

(c) The contractor shall be reimbursed: (1) For the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (2) for liabilities to third persons for loss of or damage to property (other than property (i) owned, occupied or used by the contractor or rented to the contractor or (ii) in the care, custody, or control of the contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, whether or not caused by the negligence of the contractor, his agents, servants, or employees; provided, such liabilities are represented by final judgments or by settlements approved in writing by the Government and expenses incidental to such liabilities, except liabilities (a) for which the contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the schedule, or (b) with respect to which the contractor has failed to insure as required or maintain insurance as approved by the contracting officer or (c) which results from willful misconduct or lack of good faith on the part of any of the contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of (1) all or substantially all of the contractor's business, or (2) all or substantially all of the contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The foregoing shall not restrict the right of the contractor to be reimbursed for the cost of insurance maintained by the contractor in connection with the performance of this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause; provided such cost would constitute allowable cost under the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment."

(d) The contractor shall give the Government or its representatives immediate notice of any suit or action filed, and prompt notice of any claim made, against the contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the contractor under the provisions of this contract, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The contractor shall furnish immediately to the Government copies of all pertinent papers received by the contractor. If the amount of the liability claimed exceeds the amount of coverage, the contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the contractor in or take charge of any litigation in connection therewith: *Provided*, That the contractor may, at his own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

§ 2–7.250–25 Payment for overtime and shift premiums.

PAYMENT FOR OVERTIME AND SHIFT PREMIUMS

(a) Allowable cost shall not include any amount on account of overtime or shift premiums, except to the extent that they either (i) are approved in writing by the contracting officer or (ii) are paid for work.

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature.

(2) By indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting.

(3) In the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat, which are continuous in nature and cannot reasonably be interrupted or otherwise completed, or

(4) Which will result in lower overall cost to the Government.

(b) The cost of overtime or shift premiums otherwise allowable under (a) above shall be allowed only to the extent the amount thereof is reasonable and properly allocable to the work under this contract.

§ 2–7.250–26 [Reserved]

§ 2–7.250–27 Price reduction for defective cost or pricing data.

Where a certificate of cost or pricing data is required by or obtained pursuant to § 1–3.807–3(b) of this title, the clause set forth in § 1–3.814–1(a) of this title, appropriately modified if necessary, shall be included in the contract.

§ 2–7.250–28 Audit and records.

Where the Price Reduction for Defective Cost or Pricing Data clause set forth in § 1–3.814–1(a) of this title is included in the contract, the clause set forth in § 1–3.814–2(c) of this title also shall be included in the contract.

§ 2–7.250–29 Subcontractor cost and pricing data.

Where, in accordance with § 1–3.814–1(a) of this title, the Price Reduction for

Defective Cost or Pricing Data clause therein is included in the contract the clause set forth in § 1–3.814–3(a) of this title, appropriately modified if necessary, also shall be included in the contract.

§ 2–7.250–30 Priorities, allocations, and allotments.

Insert the clause set forth in § 2–7.150–9.

§ 2–7.250–31 Renegotiation.

Unless it has been conclusively determined that the contract is exempt from the Renegotiation Act of 1951, as amended, insert the clause set forth in § 2–7.150–17(a).

§ 2–7.250–32 Government property.

GOVERNMENT PROPERTY

(a) The Government shall deliver to the contractor, for use in connection with and under the terms of this contract, the property described in the schedule or specifications, together with such related data and information as the contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the contractor at the times stated in the schedule or, if not so stated, in sufficient time to enable the contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the contractor by such time or times, the contracting officer shall, upon timely written request made by the contractor, make a determination of the delay occasioned the contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." In the event that Government-furnished property is received by the contractor in a condition not suitable for the intended use, the contractor shall, upon receipt thereof notify the contracting officer of such fact and act as directed by the contracting officer. Upon completion of such action the contracting officer upon written request of the contractor shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provision affected by the return or disposition, or the repair of modification, in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the contractor, for the cost of which the contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the contractor under the contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government-furnished property, together with all property acquired by the contractor title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government property."

(c) Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty. The contractor agrees to promptly account for all Government property and to maintain a suitable inventory control system acceptable to the contracting officer.

(d) The Government property provided or furnished pursuant to the terms of this contract shall, unless otherwise provided herein be used only for the performance of this contract.

(e) The contractor shall maintain and administer in accordance with sound industrial practice, a program, for the maintenance, repair, protection and preservation of Government property so as to assure its full availability and usefulness for the performance of this contract. The contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the contracting officer may prescribe as reasonably necessary for the protection of Government property.

(f) (1) The contractor shall not be liable for any loss of or damage to the Government property, or for expenses incidental to such loss or damage, except that the contractor shall be responsible for any such loss or damage (including expenses incidental thereto).

(i) Which results from willful misconduct or lack of good faith on the part of any one of the contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of:

(A) All or substantially all of the contractor's business, or

(B) All or substantially all of the contractor's operations at any one plant or separate location in which this contract is being performed, or

(C) A separate and complete major industrial operation in connection with the performance of this contract;

(ii) Which results from a failure on the part of the contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in subparagraph (i) above.

(A) To maintain and administer, in accordance with sound industrial practice, the program for maintenance, repair, protection and preservation of Government property as required by paragraph (e) hereof, or

(B) To take all reasonable steps to comply with any appropriate written directions of the contracting officer under paragraph (e) hereof:

(iii) For which the contractor is otherwise responsible under the express terms of the clause or clauses designated in the schedule;

(iv) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: *Provided*, That, if more than one of the above exceptions shall be applicable in any case, the contractor's liability under any one exception shall not be limited by any other exception. This clause shall not be construed as relieving a subcontractor from liability for loss or destruction of or damage to Government property in his possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, may provide for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(2) The contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provisions of this contract.

(3) Upon the happening of loss or destruction of or damage to the Government property, the contractor shall notify the contracting officer or his designated representative thereof; and shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the contracting officer a statement of all the details concerning the loss or damage and the insurance coverage, if any. The contractor shall make repairs and renovations of the damaged Government property or take such other action, as the contracting officer directs.

(4) In the event the contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, he shall use the proceeds to repair, renovate or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the contracting officer. The contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction or damage and, upon the request of the contracting officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where the subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(g) The Government shall at all reasonable times have access to the premises where any of the Government property is located.

(h) The Government property shall remain in the possession of the contractor for such period of time as is required for the performance of this contract unless the contracting officer determines that the interests of the Government require removal of such property. In such case the contractor shall promptly take such action as the contracting officer may direct with respect to the removal and shipping of Government property. In any such instance, the contract may be amended to accomplish an equitable adjustment in the terms and provisions thereof.

(i) Upon the completion of this contract, or at such earlier dates as may be fixed by

the contracting officer, the contractor shall submit to the contracting officer in a form acceptable to him, inventory schedules covering all items of the Government property not consumed in the performance of this contract, or not therefore delivered to the Government, and shall deliver or make such other disposal of such Government property as may be directed or authorized by the contracting officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the contracting officer may direct. The foregoing provisions shall apply to scrap from Government property: *Provided, however,* That the contracting officer may authorize or direct the contractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings, or cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the contractor's normal practice and account therefore as a part of general overhead or other reimbursable cost in accordance with the contractor's established accounting procedures.

(j) Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the contractor's plant or any portion thereof which is affected by the removal of any Government property.

(k) Directions of the contracting officer and communications of the contractor issued pursuant to this clause shall be in writing.

§ 2–7.250–33 Notice to the Government of labor disputes.

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES

(a) Whenever the contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the contracting officer.

(b) The contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime contractor, as the case may be, of all relevant information with respect to such dispute.

§ 2–7.250–34 Notice to the Government regarding late delivery.

NOTICE TO THE GOVERNMENT REGARDING LATE DELIVERY

In the event the contractor encounters difficulty in meeting performance requirements, or anticipates difficulty in complying with the contract delivery schedule or date, the contractor shall immediately notify the contracting officer thereof in writing, giving pertinent details, including the date by which it expects to complete performance or make delivery: *Provided, however,* That this data shall be informational only in character and that receipt thereof shall not be construed as a waiver by the Government of any contract delivery schedule or date, or any rights or remedies provided by law or under this contract.

§ 2–7.250–35 Quality of materials, workmanship, and design.

QUALITY OF MATERIALS, WORKMANSHIP, AND DESIGN

Any equipment to be furnished under this contract shall be manufactured and processed in a careful and workmanlike manner. All details of design, construction and installation shall present a neat appearance and shall accord with the best commercial standards and practices. Unless otherwise specified, all materials, supplies, and components to be furnished must be new, unused, of current production, and of the most suitable grade for the purpose intended.

§ 2–7.250–36 Collection of information.

Insert the clause set forth in § 2–7.150–11.

§ 2–7.250–37 Other contractors.

OTHER CONTRACTORS

The Government may undertake or award other contracts for additional or related work, and the contractor shall fully cooperate with such other contractors and Government employees and carefully fit its own work to such additional work. The contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Government employees.

The foregoing paragraph shall be included in the contracts of all contractors with whom this contractor will be required to cooperate. The Government shall equitably enforce this clause as to all contractors, to prevent the imposition of unreasonable burdens on any contractor.

§ 2–7.250–38 Dissemination of contract information.

DISSEMINATION OF CONTRACT INFORMATION

The contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the objectives, results, or conclusions made pursuant to performance of this contract, without the prior written consent of the [1] _____, Federal Aviation Agency. (Two copies of any material proposed to be published or distributed shall be submitted.)

§ 2–7.250–39 Gratuities.

Insert the clause set forth in § 2–7.150–21.

§ 2–7.250–40 [Reserved]

§ 2–7.250–41 Wages, salary, and other compensation.

WAGES, SALARY, AND OTHER COMPENSATION

(a) The contractor agrees that all direct wages, salaries, and other compensation to be paid to its executives, department heads, corporate officers, or employees and to be applied to the contract in whole or in part either as direct costs or indirect costs shall be in accordance with its established wage and salary policies and practices including employee relations plans and shall have the prior approval of the contracting officer.

(b) In order that the contracting officer may determine the reasonableness of the proposed wages, salaries, and other compensation, the contractor shall submit to the contracting officer the proposed wage and salary rate schedule, and plans for additional compensation resulting from employee relations, profit sharing, pension, or health and welfare benefits and the like. The contractor shall submit such other information as the contracting officer may require to determine the reasonableness of such schedules or plans for reimbursement under the contract as either direct or indirect costs.

(c) The contractor shall not be reimbursed for the payment of any wage, salary, or other compensation to any individual employee, executive, department head, or corporate officer whose total compensation is $25,000 or more per annum unless, and until, there has been submitted to, and approved by, the contracting officer a statement setting forth such facts as the contracting officer may require to determine if the rate of compensation for each person involved shall be approved for reimbursement. The information required may not be limited to prior salary, present salary, proposed salary, qualifications, and experience.

(d) The contractor shall also submit for approval by the contracting officer any proposed amendments or modifications of such wage and salary schedule, plans and other data previously submitted. Reimbursement of wages, salaries, or other compensation shall be limited to the latest approval given by the contracting officer.

§ 2–7.250–42 Rights in data.

Insert the appropriate clause set forth in § 2–9.5302 or § 2–9.5303 of this chapter, in accordance with the instructions for their use as described in FAPM § 2–9.5301–1 of this chapter.

§ 2–7.250–43 Authorization and consent.

Insert the clause set forth in § 2–7.150–7.

§ 2–7.250–44 Negotiated overhead rates.

When negotiated overhead rates are to be used pursuant to § 2–3.704 of this chapter, insert the appropriate "Negotiated Overhead Rates" clause in §§ 2–3.704–1 and 2–3.704–2 of this chapter, as well as the appropriate interim payment clause set forth in § 2–3.704–3 of this chapter.

§ 2–7.250–45 Indirect costs (actual).

When settlement of overhead is to be provided by audit determination, the clause entitled "Indirect Costs (actual)" in § 2–3.704–4 of this chapter shall be inserted in the contract in lieu of the negotiated overhead rate clauses prescribed in §§ 2–3.704–1 and 2–3.704–2 of this chapter.

§ 2–7.250–46 Background patents (license).

If required by the instructions for its use in § 2–9.5103 of this chapter, insert the clause set forth in § 2–9.5103–1 of this chapter.

§ 2–7.250–47 Estimated cost and fixed fee.

An appropriate statement should be placed on the face of the contract or in the schedule to set forth the estimated cost for the performance of the contract and any fixed fee. Examples are as follows:

[1] (i) In Washington contracts, insert "Director, Systems Research and Development Service" for contracts resulting from SRDS procurement requests; insert "Contracting Officer" for all other contracts. (ii) All other procurement offices will insert "Contracting Officer".

EXAMPLE 1—ESTIMATED COST AND FIXED FEE

The estimated cost for the performance of this contract is $_____ consisting of $_____ for allowable direct and indirect costs and $_____ for a fixed fee.

EXAMPLE 2—ESTIMATED COST

The estimated cost for the performance of this contract is $_____. This sum covers all direct and indirect costs. No fixed fee is to be paid the contractor.

Subpart 2–7.3—Fixed-Price Research and Development Contracts

§ 2–7.300 Scope of subpart.

This subpart sets forth or cites contract clauses to be used in fixed-price research and development contracts.

§ 2–7.350 Clauses.

The following clauses shall, unless otherwise indicated by the specific instructions for their use, be inserted in all fixed-price research and development contracts calling for delivery within the United States, its possessions, or Puerto Rico, and unless inappropriate, in such contracts calling for foreign delivery.

§ 2–7.350–1 Definitions.

Insert the clause set forth in § 1–7.101–1 of this title and any additional definitions that are not inconsistent with the definitions in the above cited clause.

§ 2–7.350–2 Changes.

The contracting officer, if he considers it desirable, may change the period of 30 days for the assertion of a claim to any number of days up to, but not to exceed, 60 days.

CHANGES

The contracting officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; and (iii) place of inspection, delivery, or acceptance. If any such change causes an increase or decrease in the cost of, or the time required for performance of, this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any other such order, an equitable adjustment shall be made (i) in the contract price or time of performance, or both, and (ii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the contractor of the notification of change; *Provided, however,* That the contracting officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. 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". However, nothing in this clause shall excuse the contractor from proceeding with the contract as changed.

§ 2–7.350–3 Assignment of claims.

Insert the clause set forth in § 1–30.703 of this title. However, the "no set-off" provision should not be included in contracts where the contractor is indebted to the Government or its omission appears appropriate to protect the interests of the Government.

§ 2–7.350–4 Examination of records.

Insert the clause set forth in § 1–7.101–10 of this title.

§ 2–7.350–5 Termination for convenience of the Government.

Insert the clause set forth in § 1–8.701 of this title where a profit is contemplated. Insert the clause in § 1–8.704–1 of this title in any contract with an educational or non-profit institution on a no-fee or no-profit basis.

§ 2–7.350–6 Disputes.

Insert the clause set forth in § 1–7.101–12 of this title.

§ 2–7.350–7 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 1–7.101–13 of this title.

§ 2–7.350–8 Buy American Act.

Insert the clause set forth in § 1–6.104–5 of this title under the conditions contained therein.

§ 2–7.350–9 Convict labor.

Insert the clause set forth in § 1–12.203 of this title under the conditions contained in § 1–12.202 of this title.

§ 2–7.350–10 Contract Work Hours Standards Act—Overtime Compensation.

Insert the clause set forth in § 1–12.303 of this title (modified as set forth in FAPM 2–7.101–16) under the conditions contained in § 1–12.302 of this title.

§ 2–7.350–11 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 1–12.605 of this title under the conditions contained in § 1–12.602 of this title.

§ 2–7.350–12 Equal opportunity.

Insert the clause set forth in § 1–12.803–2 of this title.

§ 2–7.350–13 Officials not to benefit.

Insert the clause set forth in § 1–7.101–19 of this title.

§ 2–7.350–14 Covenant against contingent fees.

Insert the clause set forth in § 1–1.503 of this title under the conditions contained in § 1–1.501 of this title.

§ 2–7.350–15 Utilization of small business concerns.

Insert the clause set forth in § 1–1.710–3(a) of this title under the conditions contained therein.

§ 2–7.350–16 Small business subcontracting program.

When the criteria specified in § 1–1.710–3(b) of this title are met, insert the clause contained therein.

§ 2–7.350–17 Utilization of concerns in labor surplus areas.

Insert the clause set forth in § 1–1.805–3(a) of this title under the conditions contained therein.

§ 2–7.350–18 Labor surplus area subcontracting program.

When the criteria specified in § 1–1.805–(b) of this title are met, insert the clause contained therein.

§ 2–7.350–19 Payments.

PAYMENTS

The contractor shall be paid, upon submission of proper invoices or vouchers, the prices stipulated herein for work delivered or rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made upon acceptance of any portion of the work delivered or rendered for which a price is separately stated in the contract.

§ 2–7.350–20 Inspection.

(a) The following clause shall be used where the primary contract objective is delivery of end items other than designs, drawings, or reports, except where the contracting officer determines that the use of such clause is impracticable. Where this clause is not used, the clause in paragraph (b) of this section shall be used.

INSPECTION

(a) All work under this contract shall be subject to inspection and test by the Government, to the extent practicable, at all times (including the period of performance) and places, and in any event prior to acceptance. The Government through any authorized representative may inspect the premises of the contractor or any subcontractor engaged in the performance of this contract.

(b) The Government may reject any work that is defective or otherwise not in conformity with the requirements of this contract. If the contractor fails or is unable to correct or to replace such work, the contracting officer may accept such work at a reduction in price which is equitable under the circumstances. Failure to agree on the reduction in price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes".

(c) If any inspection or test is made by the Government on the premises of the contractor or a subcontractor, the contractor shall provide, without additional charge, all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If the Government inspection or test is made at a point other than the premises of the contractor or subcontractor, it shall be at the expense of the Government. All inspections and tests by the Government shall be performed in such a manner as not unduly to delay the work. Final inspection and acceptance or rejection of the work shall be made as promptly as practicable after delivery except as otherwise provided in this contract; but failure to inspect and accept, or reject the work shall neither relieve the contractor from responsibility for such of the work as is not in accordance with the contract requirements nor impose liability on the Government therefor.

(d) The inspection and test by the Government of any work shall not relieve the contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(e) The contractor shall provide and maintain an inspection system acceptable to the Government covering the work hereunder. Records of all inspection work by the contractor shall be kept complete and available

to the Government during the performance of this contract and for such longer period as may be specified elsewhere in this contract.

(b) The following clause shall be inserted in all contracts subject to this subpart where the clause in paragraph (a) of this section is not used.

INSPECTION

The Government, through any authorized representatives, has the right, at all reasonable times, to inspect, or otherwise evaluate the work performed hereunder and the premises in which it is being performed hereunder and the premises in which it is being performed. If any inspection, or evaluation is made by the Government on the premises of the contractor or a subcontractor, the contractor shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

§ 2–7.350–21 Federal, State, and local taxes.

In accordance with the requirements of the § 1–11.401 of this title, insert the contract clause set forth in § 1–11.401 or § 1–11.401–2 of this title as appropriate. These clauses shall be supplemented by the clause set forth in § 1–11.401–3 of this title when the contract will be performed in whole or in part in a possession of the United States or in Puerto Rico.

§ 2–7.350–22 Default.

Insert the clause set forth in § 1–8.710 of this title.

§ 2–7.350–23 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in § 1–3.814–1 of this title under the conditions described therein.

§ 2–7.350–24 Audit and records.

Insert the appropriate clause or clauses set forth in § 1–3.814–2 of this title under the conditions described therein.

§ 2–7.350–25 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in § 1–3.814–3 of this title under the conditions described therein.

§ 2–7.350–26 Progress payments.

When progress payments are to be made in accordance with Subpart 1–30.5 of this title, insert the appropriate clause as provided in § 1–30.510 of this title.

§ 2–7.350–27 Workmen's compensation insurance (Defense Base Act).

In accordance with the requirements of § 1–10.403 of this title, insert the clause set forth therein.

§ 2–7.350–28 Priorities, allocations, and allotments.

Insert the clause set forth in § 2–7.150–9.

§ 2–7.350–29 Renegotiation.

Insert the clause set forth in § 2–7.150–17(a) under the conditions described therein.

§ 2–7.350–30 Government-furnished property.

When property will be furnished by the Government in the performance of the contract, insert the clause set forth in § 2–7.150–12.

§ 2–7.350–31 Status of performance.

Insert paragraph (a) of the clause set forth in § 2–7.150–3.

§ 2–7.350–32 Notice to the Government of labor disputes.

Insert the clause set forth in § 2–7.250–33.

§ 2–7.350–33 Collection of information.

Insert the clause set forth in § 2–7.150–11.

§ 2–7.350–34 Suspension of work.

Insert the clause set forth in § 2–7.150–8 under the conditions described therein.

§ 2–7.350–35 Dissemination of contract information.

Insert the clause set forth in § 2–7.250–38.

§ 2–7.350–36 Gratuities.

Insert the clause set forth in § 2–7.150–21.

§ 2–7.350–37 Interpretation or modification.

Insert the clause set forth in § 2–7.150–2.

§ 2–7.350–38 Rights in data.

Insert the appropriate clause set forth in § 2–9.5302 or § 2–9.5303 of this chapter, in accordance with the instructions for their use as described in § 2–9.5301–1 of this chapter.

§ 2–7.350–39 Patent rights.

Insert the clause set forth in § 2–9.5102 of this chapter in accordance with the instructions for its use.

§ 2–7.350–40 Recovery of costs.

Insert the clause set forth in § 2–9.5202(b) of this chapter in accordance with the instructions for its use as described in § 2–9.5202(a) of this chapter.

§ 2–7.350–41 Authorization and consent.

Insert the clause set forth in § 2–7.450–4.

§ 2–7.350–42 Background patents (license).

Insert the clause set forth in § 2–9.5103–1 of this chapter in accordance with the instructions for its use as described in § 2–9.5103 of this chapter.

Subpart 2–7.4—Cost-Reimbursement Type Research and Development Contracts

§ 2–7.400 Scope of subpart.

This subpart sets forth contract clauses for use in cost-reimbursement contracts for design, research, development, test, or experimental work.

§ 2–7.450 Clauses.

In all cost-reimbursement type contracts for design, research, development, test, or experimental work calling for delivery or completion of work within the United States, its possessions, or Puerto Rico, insert the clauses set forth in §§ 2–7.250–1 through 2–7.250–41, 2–7.250–47, and those in this subpart unless otherwise indicated by the specific instructions for their use.

§ 2–7.450–1 Rights in data.

Insert the appropriate clause set forth in § 2–9.5302 or § 2–9.5303 of this chapter, in accordance with the instructions for its use as described in § 2–9.5301–1 of this chapter.

§ 2–7.450–2 Patent rights.

Insert the clause set forth in § 2–9.5102–1 of this chapter in accordance with the instructions for its use.

§ 2–7.450–3 Recovery of costs.

Insert the clause set forth in § 2–9.5202(b) of this chapter in accordance with the instructions for its use as described in § 2–9.5202(a) of this chapter.

§ 2–7.450–4 Authorization and consent.

Insert the following clause.

AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

§ 2–7.450–5 Negotiated overhead rates.

When negotiated overhead rates are to be used pursuant to § 2–3.704 of this chapter, insert the appropriate "Negotiated Overhead Rates" clause in §§ 2–3.704–1 and 2–3.704–2 of this chapter, as well as the appropriate interim payment clause set forth in § 2–3.704–3 of this chapter.

§ 2–7.450–6 Indirect costs (actual).

When settlement of overhead is to be provided by audit determination, the clause entitled "Indirect Costs (actual)" in § 2–3.704–4 of this chapter shall be inserted in the contract in lieu of the negotiated overhead rate clauses prescribed in §§ 2–3.704–1 and 2–3.704–2 of this chapter.

§ 2–7.450–7 Background patents (license).

Insert the clause set forth in § 2–9.5103–1 of this chapter in accordance with the instructions for its use as described in § 2–9.5103 of this chapter.

PART 2–9—PATENTS, DATA, AND COPYRIGHTS

Sec.

AUTHORITY: The provisions of this Part 2–9 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

§ 2–9.5000 Scope of part.

This part sets forth policies, instructions, and contract clauses pertaining to patents, data, and copyrights in connection with the procurement of supplies and services.

§ 2–9.5001 Introduction.

Agency procurements often involve important rights in patents, data, and proprietary information. It is important for procurement personnel to be familiar with the basic policies in these areas because they are called upon to include appropriate terms for them in solicitations, and subsequently to negotiate and administer the terms under contracts. The legal complexities of these subjects requires procurement personnel to work closely with patent counsel when problems arise that need interpretation of, or departure from, established Agency patent and data policies.

§ 2–9.5002 Descriptions of terms.

§ 2–9.5002–1 Patents.

(a) Patents are rights in inventions, protected by Federal law in the case of these filed in the United States. A patent is a Government grant to an inventor. It lasts for seventeen years, during which time it gives the inventor, or his assignee, the right to exclude anyone else from making, using, or selling the invention. The patent holder thus has a property right, which is, in effect, a monopoly. He may sell or assign the patent; he may grant licenses to practice the invention; and, if his patent is infringed, he is protected by law. He may obtain an injunction restraining the infringement against anyone but the Government, and he may also receive damages for the economic injury already sustained.

(b) Patentable inventions fall into five categories:

(1) Processes or methods;

(2) Machines or articles of manufacture;

(3) Compositions of matter;

(4) Improvements in processes, devices, articles of manufacture, or compositions of matter; and

(5) Designs for articles of manufacture.

To be patentable, however, an invention must be both novel and useful. It must reflect a creative originality and have a practical application.

§ 2–9.5002–2 Data.

The term "data" applies to various written information and graphical representations that may be acquired with a procurement. For a given purchase, they may be a description of an invention; plans and specifications for an end item; a maintenance manual for operational equipment; a research report, or some other body of information related to the contract. If the data qualify as literary or artistic works under Federal copyright law, they may be copyrighted, which gives the owner exclusive rights in the data for a given period of time.

§ 2–9.5002–3 Royalties.

Royalties are payments to a patent holder for the use or sale of his invention.

§ 2–9.5003 Agency policy on retention of patent and royalty rights.

Agency Order RD 4450.1 sets forth the Agency policy with respect to the retention of rights and recovery and costs in connection with negotiated contracts involving research or development. The Agency policy states: "In negotiating contracts under which the Government pays a part or all of the costs of research or development, it is the policy of the Federal Aviation Agency to retain, for the benefit of the United States, rights to data and patent rights, in reasonable proportion to the contributions of the Agency and the contractor; and to recover the FAA's contribution toward such research and develpment through royalties to the Government upon commercial exploitation of the products developed thereby."

Subpart 2–9.51—Patents

§ 2–9.5100 Scope of subpart.

This subpart prescribes contract clauses and instructions with respect to patents and royalties.

§ 2–9.5101 [Reserved]

§ 2–9.5102 Patent rights.

§ 2–9.5102–1 Patent rights contract clause.

Insert the following clause in contracts involving design, research, development, test, or experimental work. It may be included in other contracts where appropriate. The contracting officer may alter the clause to suit a particular situation. However, any such alterations must be in accordance with Agency regulations on patent rights, including Agency policy set forth in § 2–9.5003 and the Presidential Statement of Government Patent Policy, hereafter referred to as "Presidential Policy Statement", dated October 10, 1963 (see § 2–9.5120).

PATENT RIGHTS

(a) Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived or for the first time actually or constructively reduced to practice, by the contractor or its employees, in the course of, in connection with, or under the terms of this contract, the contractor shall immediately give the contracting officer written notice thereof, and shall promptly thereafter furnish the contracting officer with complete information thereon; and the Administrator shall have the sole and exclusive power to determine whether or not and where a patent application shall be filed, and to determine the disposition of all rights in such invention, improvement, or discovery, including title to and rights under any patent application or patent that may issue thereon. The determination of the Administrator on all these matters shall be accepted as final and the provisions of the clause of this contract entitled "Disputes" shall not apply; and the contrator agrees that it will, and warrants that all of its employees who may be the inventors will, execute all documents and do all things necessary or proper to the effectuation of such determination.

(b) Except as otherwise authorized in writing by the contracting officer, the contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract, except such clerical and manual labor personnel as will have no access to technical data.

(c) Except as otherwise authorized in writing by the contracting officer, the contractor will insert in each subcontract, having experimental, developmental, or research work as one of its purposes, provisions making this clause applicable to the subcontractor and its employees.

(d) If the Government obtains patent rights pursuant to this clause of this contract, the contractor shall be offered license rights thereto on terms at least as favorable as those offered to any other firm.

(e) In the event no inventions, improvements or discoveries (whether or not patentable) are made or conceived, or for the first time actually or constructively reduced to practice, by the contractor or its employees in the course of, in connection with, or under the terms of this contract, the contractor

shall so certify to the contracting officer before final payment hereunder.

(f) If the contractor is permitted to file patent applications pursuant to this clause of this contract, the following statement shall be included within the first paragraph of the specification of any such patent application or patent:

"The invention described herein was made in the course of, or under, a contract (or grant) with the Federal Aviation Agency."

§ 2–9.5102–2 Use of patent rights clause in A–E contracts and supply contracts.

(a) *In A–E contracts.* As appropriate, a patent rights clause should be included in architect and engineering contracts. This will insure the Government's right to patented designs developed at Government expense. This is important for several reasons, but especially compelling is the fact that the contractor who is awarded the eventual construction contract will be required to give patent indemnity (see Standard Form 23A: General Provisions (Construction Contract)).

(b) *In supply contracts.* Patent rights are not usually obtained under supply contracts. The development work on an item has generally been completed by that time, and there is seldom any need to acquire additional rights at that point in a program.

§ 2–9.5102–3 Use of patent rights clause in foreign contracts.

There is no exemption from patent rights requirements for research and development contracts to be performed overseas. However, the clause shall be reviewed with Agency patent counsel to determine whether modifications are required to meet any differences in foreign procurement.

§ 2–9.5102–4 [Reserved]

§ 2–9.5102–5 Modification of patent rights clause.

(a) Where the contracting situation does not fall within the criteria of section 1(a) of the Presidential Policy Statement, modification of the patent rights clause may be considered, as in the following examples:

(1) Where the purpose of the contract is to build upon existing knowledge and technology and develop items for use by the Government, and not to develop items for use by the general public as covered in subsection 1(a)(1) of the Presidential Policy Statement, and the contractor has an established nongovernmental commercial position, the modification might allow the contractor to acquire the principal or exclusive rights throughout the world in and to any resulting inventions, subject to the Government acquiring at least an irrevocable nonexclusive royalty free license through the world for governmental purposes and certain additional rights required by the Presidential Policy Statement.

(2) Where the commercial interests of the contractor are not sufficiently established to be covered by the criteria specified in section 1(b) of the Presidential Policy Statement, the modification might permit the contractor to acquire greater rights than a nonexclusive license, in specific inventions after they have been identified under the contract. In any case, the Government shall acquire at least a nonexclusive royalty free license throughout the world for governmental purposes, and certain additional rights required by the Presidential Policy Statement.

(b) The above examples illustrate just a few of the modifications that may be possible and desirable. The contracting officer must consider each proposed research and development project in the light of Agency patent policy (see § 2–9.5003) and the Presidential Policy Statement (§ 2–9.5120). Because of the many legal complexities in the patent area, any proposed modification of the Patent Rights clause must be reviewed with the Agency patent counsel prior to issuing the solicitation or making any commitment to the prospective contractor.

§ 2–9.5103 Background patents (license).

(a) Insert the clause in § 2–9.5103–1 in all contracts having as a substantial purpose, the performance of design, research, development, test (including evaluation) or experimental work by the contractor.

(b) Insert the clause in supply contracts when the Agency buys the product for test or evaluation purposes and where, as a result of the Agency's efforts, the commercial market for the product may be created or enhanced.

(c) The clause need not be used in supply contracts:

(1) Where the product to be tested (or evaluated) is substantially complete for the commercial purpose for which it is being tested (or evaluated);

(2) Where the prospective contractor's monetary contribution to the program resulting in the development of the hardware is substantially greater than the Government's monetary contribution; or

(3) Where the commercial market for the product existed prior to, will not be created primarily as a result of, the Government's test or evaluation.

(d) The contracting officer may alter the clause to suit a particular situation. However, any such alteration must accord with Agency policy against investment of public funds in a program which may create or enhance the market for a product required in the interest of public health, safety, or welfare, unless it receives assurance that the product will be available at reasonable prices, in sufficient quantity and quality to meet the public needs. To this end, the contractor must agree to license the manufacture and sale of any such product under any patents under which he has the right to grant such licenses, such license to be restricted to use on products to which the contract relates.

§ 2–9.5103–1 Contract clause.

BACKGROUND PATENTS (LICENSE)

(a) "Background Patent" means any U.S. patent covering the practice (manufacture, use, or sale) of any product (process, machine, manufacture, or composition of matter) which is the subject of this contract under which the contractor has the right to license others.

(b) "The Product" means the process, machine, manufacture, or composition of matter to which the contract relates, or a product substantially the same.

(c) Where the Administrator determines:

(1) That the product is required by members of the public in the interest of the public health, safety, or welfare, and

(2) That the contractor, together with any other deriving rights from his patents, has not produced the product at a reasonable price in sufficient quantity and at a level of quality to meet public needs,

the contractor shall, on written application, issue appropriate license to others under any Background Patent, on reasonable terms, such licenses to be restricted to use for production, sale, and use of the product.

(d) Where the Administrator has made the determinations set forth in (c) the contractor (or those deriving rights from the contractor) shall not seek injunctive relief to enforce a Background Patent without:

(1) Previously advising the General Counsel of the Federal Aviation Agency;

(2) Giving the Government the right to intervene in the injunction proceeding, and

(3) Disclosing the commitment set out in this clause to the court from which the injunction is sought.

§§ 2–9.5104—2–9.5108 [Reserved]

§ 2–9.5109 Infringement of patents.

§ 2–9.5109–1 Definition and basic policy.

A patent infringement is any unauthorized use of a patented invention. Agency policy on patent infringement is designed to do two things: First, to protect the continuity of the procurement effort, and second, but less important, to protect the Agency against patent infringements by its contractors.

§ 2–9.5109–2 Authorization and consent.

(a) If the owner of a patent were to discover that someone was infringing his patent, he would, ordinarily, sue the other party, but he is not permitted to do this if the other party is working on a Government contract and the Government has given its authorization or consent to the use of the patented invention. Here, the patent owner's only legal remedy is to bring a damage suit against the Government itself. This rule is established by statute and is set forth in 28 U.S.C. 1498. The reason for the statute is to prevent injunction suits from delaying work on Government contracts.

(b) Consent need not be explicit to expose the Government to suit. The courts have stated that consent has been given if the patented invention was incorporated in any contract article or material delivered to and accepted by the Government. To remove any question of implied consent, however, an authorization and consent clause (see clauses in FAPM Part 2–7) is included in most contracts that involve delivery and performance within the United States, its possessions, and territories. Protection given a contractor by an authorization and consent clause is automatically available to a subcontractor by statute,

even though the clause may not be included in the subcontract.

§ 2–95110 Patent indemnity.

§ 2–9.5110–1 Relation to authorization and consent clause.

(a) Authorization and consent to the use of patented inventions need not mean that the Government accepts final liability for a patent infringement. Very often there may be a question as to whether a patent is valid or has actually been infringed. Moreover, the contract may contain indemnity provisions. In this case, the contractor must pay the Government the amount of any liability it incurs on account of patent infringement.

(b) It is not inconsistent to use patent indemnity and authorization and consent clauses in the same contract. The authorization and consent clause operates only to prevent delay in the work if there is a claimed infringement. It is not intended to encourage infringement; this is where the indemnity agreement comes in. The indemnity terms make the contractor liable to the Government for the full amount (plus costs) that the Government must pay the patent owner for an infringment.

§ 2–9.5110–2 Circumstances in which a patent indemnity is used.

(a) A patent indemnity clause (see § 2–7.150–6 of this chapter) is used in every formally advertised FAA fixed price supply contract exceeding $5,000. The indemnity is applicable to supplies normally sold to the public in the commercial open market, and it applies even when these commercial supplies include minor modifications for the Government. A patent indemnity is also appropriate in construction contracts and an indemnity clause is included in Standard Form 23A. An indemnity clause is not used, however, when both performance and delivery are to take place outside the United States, its territories, possessions, or Puerto Rico, and there is no indication that the supplies will ultimately be shipped to these places.

(b) Two patent indemnity clauses are authorized: The Patent Indemnity-Predetermined and the Patent Indemnity Not Predetermined (§ 2–7.150–7 of this chapter). Both, in general, have the same purpose and are for use in supply contracts. The choice as to which one to use depends on whether certain facts are known before the solicitation is issued. If it is determined before the solicitation is issued that the supplies are being, or have been, sold on the commercial market by any supplier, the Predetermined clause is used. It applies the indemnity to all supplies or construction under the contract without qualification (except for items specifically excluded from the scope of the clause). The Not Predetermined clause is used when it is not determined at the time of solicitation that the supplies are or have been available commercially. It applies the indemnity to "supplies or component parts (which) either normally are or have been sold or offered for sale to the public in the commercial open market * * *."

(c) Fixed price construction contracts contain the Patent Indemnity clause set forth in Standard Form 23A. Pursuant to this clause, patent indemnity is applicable in the event of any liability "arising out of the performance of this contract or out of the use of disposal * * * of supplies furnished or construction work performed hereunder." The "predetermined" and "not predetermined" considerations referred to above are not applicable to construction contracts.

(d) A patent indemnity clause is not necessarily required in negotiated contracts, but it may be desirable in negotiated construction contracts, as well as in negotiated supply contracts for products commonly sold by the contractor in the commercial market. In fairness to the contractor, as well as to avoid unnecessary restriction of competition, the indemnity should be limited to those items previously sold commercially "by the contractor" rather than extended to those items sold commercially "by any supplier" as is done in formally advertised contracts. If a patent indemnity clause is to be included in a negotiated contract, the Predetermined clause discussed above would normally be used. Excepted items must be specifically listed, as in advertised procurements.

§ 2–9.5111 Notice and assistance concerning patent and copyright infringement.

A standard Notice and Assistance clause (§ 1–7.101–13 of this title) is inserted in contracts over $10,000, which requires the contractor to notify the Government promptly, in writing, of any claim of patent infringement. If a claim is made against the Government, the contractor must submit, on request, all information that may help the Government in its defense. The submission of the information is at Government expense unless a patent indemnity is applicable.

§ 2–9.5112 Royalty charges.

§ 2–9.5112–1 Basic policy.

Many patent owners enter into private license agreements that permit others (called licensees) to use their inventions. As a rule, the licensees pay the patent owner a fee (or royalty) based on their sale or use of the patented item. The licensee usually passes his royalty payments on to his customer. The Government will pay a fair price for the right to use a valid and enforceable patent, but it does not want to pay royalties for patents that it already has a right to use. Indeed, § 1–15.205–36 of this title specifically makes such costs unallowable. Government rights may be available not only from FAA procurements, but from Department of Defense, NASA, or other Government contracts as well. The contracting officer should investigate in coordination with Agency patent counsel, all royalties proposed for payment with this in mind. This can open the way for negotiation to cancel improper charges. If a royalty charge is appropriate but seems unreasonable in amount, the contracting officer may want to suggest to the contractor that he try to negotiation more favorable terms with the patent owner.

§ 2–9.5112–2 Reporting of royalties.

(a) The Government has acquired license and other rights under a large number of inventions as the result of Government-sponsored research and development and in other ways. In order that the Government may determine whether the charging of royalties to the Government is inconsistent with the rights which the Government has acquired or is otherwise improper, and in order that negotiation for the reduction of excessive royalties may be undertaken, the procurement office should be informed of royalties charged or to be charged in connection with the performance of Government contracts. Royalty information generally should not be required in formally advertised procurements.

(b) Where the work is to be performed in the United States, its possessions, or Puerto Rico, any solicitation which is expected to result in a negotiated contract estimated to exceed $10,000 shall contain the following provision:

ROYALTY INFORMATION

When the response to this solicitation contains costs or charges for royalties totaling more than $250, the following information shall be furnished with the offer, proposal, or quotation on each separate item of royalty or license fee:

(i) Name and address of licensor;
(ii) Date of license agreement;
(iii) Patent numbers, patent application serial numbers or other basis on which the royalty is payable;
(iv) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;
(v) Percentage or dollar rate of royalty per unit;
(vi) Unit price of contract item;
(vii) Number of units; and
(viii) Total dollar amount of royalties.

In addition, if specifically requested by the contracting officer prior to execution of the contract, a copy of the current license agreement and identification of applicable claims of specific patents shall be furnished.

(c) Upon receipt of an offer, proposal, or quotation which includes a charge for royalties totaling more than $250, the contracting officer shall, prior to entering into a contract forward the information called for by the provision in paragraph (b) of this section to the Office of General Counsel, Attention: Patent Counsel, GC–51. This office shall promptly advise the contracting officer as to appropriate action. The contracting officer shall then take action in respect to such royalties, having due regard to all pertinent factors relating to the proposed procurement.

(d) Where subcontract work is to be performed in the United States, its possessions, or Puerto Rico, the contracting officer, when considering approval of a subcontract, shall require the same information and take the same action with respect to such subcontracts in relation

to royalties as required for prime contracts under paragraph (c) of this section.

§ 2–9.5112–3 Royalty information on subcontracts.

Royalty information should also be supplied by FAA subcontractors since Government licenses apply to work under subcontracts too. Some of this information may be made available to the contracting officer during negotiation of the prime contract, or it may become available when reviewing subcontracts during performance. In any case, the contractor should obtain the information when he is negotiating subcontracts. Neither the prime contractor nor the Government should be charged royalties by the subcontractor if the Government has license or title rights in the invention.

§ 2–9.5113 Adjustment of royalties.

(a) If the contracting officer believes that any royalties paid, or to be paid, under a contract or prospective contract are unreasonable or otherwise improper, he should promptly report the matter to the Office of General Counsel, Attention: Patent Counsel, GC–51. That office shall review the royalties thus reported and such royalties as are reported under § 2–9.5112–2. In coordination with the contracting officer, that office shall:

(1) Take prompt action to protect the Government against payment of royalties on supplies or services (i) with respect to which the Government has a royalty-free license, or (ii) at a rate in excess of the rate at which the Government is licensed, or (iii) where the royalties in whole or in part constitute an improper charge;

(2) In appropriate cases enter into negotiation for a voluntary reduction of royalties.

(b) For guidance in evaluating information furnished pursuant to § 2–9.5112–2, see §§ 1–15.205–36 and 1–15.309–33 of this title. Also see § 1–15.107 of this title regarding advance understandings on particular cost items, including royalties.

§ 2–9.5114 Refund of royalties.

When a fixed-price contract is negotiated under circumstances which make it questionable whether or not substantial amounts of royalties will have to be paid by the contractor or his subcontractors, such royalties may be included in the target or contract price, with provision made in the contract that the Government will be reimbursed the amount of such royalties if they are not paid. Such circumstances might include, for instance, a pending antitrust action by the Government, a pending private litigation challenging the validity of a patent or patents, or a prospective change in licensing assignments. The following clause may be used in firm fixed-price contracts in such circumstances. It should be appropriately modified for use in incentive contracts.

REFUND OF ROYALTIES

(a) The contract price includes certain amounts for royalties payable by the contractor or subcontractors, or both, which amounts have been reported to the contracting officer.

(b) The term "royalties," as used in this clause, refers to any payment or charge such as royalties, license fees, or the like for the use of, or rights in, patents or patent applications in connection with the performance of this contract or any subcontract hereunder.

(c) The contractor shall furnish to the contracting officer, before final payment under this contract, a statement of royalties paid or required to be paid under this contract and subcontract hereunder.

(d) If the amount of royalties paid or required to be paid in connection with the performance of this contract or of any subcontract hereunder is less than the amount reported to the contracting officer during negotiation of the contract or subcontract, or any modification of either, the contract price shall be reducted to the extent of the decrease in royalties paid or required to be paid. Payment or credit to the Government shall be made as the contracting officer may direct.

(e) The substance of this clause, including this subparagraph (e), shall be included in any subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds $250.

§§ 2–9.5115—2–9.5119 [Reserved]

§ 2–9.5120 Government patent policy.

The Presidential Statement of Government Patent Policy dated October 10, 1963, is set forth in full text below:

MEMORANDUM OF OCTOBER 10, 1963

GOVERNMENT PATENT POLICY

Memorandum for the Heads of Executive Departments and Agencies

Over the years, through executive and legislative actions, a variety of practices has developed within the executive branch affecting the disposition of rights to inventions made under contracts with outside organizations. It is not feasible to have complete uniformity of practice throughout the Government in view of the differing missions and statutory responsibilities of the several departments and agencies engaged in research and development. Nevertheless, there is need for greater consistency in agency practices in order to further the governmental and public interests in promoting the utilization of federally financed inventions and to avoid difficulties caused by different approaches by the agencies when dealing with the same class of organizations in comparable patent situations.

From the extensive and fruitful national discussions of Government patent practices, significant common ground has come into view. First, a single presumption of ownership does not provide a satisfactory basis for Government-wide policy on the allocation of rights to inventions. Another common ground of understanding is that the Government has a responsibility to foster the fullest exploitation of the inventions for the public benefit.

Attached for your guidance is a statement of Government patent policy, which I have approved, identifying common objectives and criteria and setting forth the minimum rights that Government agencies should acquire with regard to inventions made under their grants and contracts. This statement of policy seeks to protect the public interest by encouraging the Government to acquire the principal rights to inventions in situations where the nature of the work to be undertaken or the Government's past investment in the field of work favors full public access to resulting inventions. On the other hand, the policy recognizes that the public interest might also be served by according exclusive commercial rights to the contractor in situations where the contractor has an established nongovernmental commercial position and where there is greater likelihood that the invention would be worked and put into civilian use than would be the case if the invention were made more freely available.

Wherever the contractor retains more than a nonexclusive license, the policy would guard against failure to practice the invention by requiring that the contractor take effective steps within 3 years after the patent issues to bring the invention to the point of practical application or to make it available for licensing on reasonable terms. The Government would also have the right to insist on the granting of a license to others to the extent that the invention is required for public use by governmental regulations or to fulfill a health need, irrespective of the purpose of the contract.

The attached statement of policy will be reviewed after a reasonable period of trial in the light of the facts and experience accumulated. Accordingly, there should be continuing efforts to monitor, record, and evaluate the practices of the agencies pursuant to the policy guidelines.

This memorandum and the statement of policy shall be published in the FEDERAL REGISTER.

JOHN F. KENNEDY.

STATEMENT OF GOVERNMENT PATENT POLICY

BASIC CONSIDERATIONS

A. The Government expends large sums for the conduct of research and development which results in a considerable number of inventions and discoveries.

B. The inventions in scientific and technological fields resulting from work performed under Government contracts constitute a valuable national resource.

C. The use and practice of these inventions and discoveries should stimulate inventors, meet the needs of the Government, recognize the equities of the contractor, and serve the public interest.

D. The public interest in a dynamic and efficient economy requires that efforts be made to encourage the expeditious development and civilian use of these inventions. Both the need for incentives to draw forth private initiatives to this end, and the need to promote healthy competition in industry must be weighed in the disposition of patent rights under Government contracts. Where exclusive rights are acquired by the contractor, he remains subject to the provisions of the antitrust laws.

E. The public interest is also served by sharing of benefits of Government-financed research and development with foreign countries to a degree consistent with our international programs and with the objectives of U.S. foreign policy.

F. There is growing importance attaching to the acquistion of foreign patent rights in furtherance of the interests of U.S. industry and the Government.

G. The prudent administration of government research and development calls for a Government-wide policy on the disposition of inventions made under Government contracts reflecting common principles and objectives, to the extent consistent with the missions of the respective agencies. The policy must recognize the need for flexibility to accommodate special situations.

POLICY

SECTION 1. The following basic policy is established for all Government agencies with respect to inventions or discoveries made in the course of or under any contract of any Government agency, subject to specific statutes governing the disposition of patent rights of certain Government agencies.

(a) Where—

(1) A principal purpose of the contract is to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations; or

(2) A principal purpose of the contract is for exploration into fields which directly concern the public health or public welfare; or

(3) The contract is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position; or

(4) The services of the contractor are

(i) For the operation of a Government-owned research or production facility; or

(ii) For coordinating and directing the work of others, the Government shall normally acquire or reserve the right to acquire the principal or exclusive rights throughout the world in and to any inventions made in the course of or under the contract. In exceptional circumstances the contractor may acquire greater rights than a nonexclusive license at the time of contracting, where the head of the department or agency certifies that such action will best serve the public interest. Greater rights may also be acquired by the contractor after the invention has been identified, where the invention when made in the course of or under the contract is not a primary object of the contract, provided the acquisition of such greater rights is consistent with the intent of this section 1(a) and is a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application.

(b) In other situations, where the purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government, and the work called for by the contract is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position, the contractor shall normally acquire the principal or exclusive rights throughout the world in and to any resulting inventions, subject to the Government acquiring at least an irrevocable nonexclusive royalty free license throughout the world for governmental purposes.

(c) Where the commercial interests of the contractor are not sufficiently established to be covered by the criteria specified in section 1(b), above, the determination of rights shall be made by the agency after the invention has been identified, in a manner deemed most likely to serve the public interest as expressed in this policy statement, taking particularly into account the intentions of the contractor to bring the invention to the point of commercial application and the guidelines of section 1(a) hereof: *Provided*, That the agency may prescribe by regulation special situations where the public interest in the availability of the inventions would best be served by permitting the contractor to acquire at the time of contracting greater rights than a nonexclusive license. In any case the Government shall acquire at least a nonexclusive royalty free license throughout the world for governmental purposes.

(d) In the situation specified in sections 1(b) and 1(c), when two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to grant the Government principal or exclusive rights in resulting inventions will be an additional factor in the evaluation of the proposals.

(e) Where the principal or exclusive (except as against the Government) rights in an invention remain in the contractor, he should agree to provide written reports at reasonable intervals, when requested by the Government, on the commercial use that is being made or is intended to be made of inventions made under Government contracts.

(f) Where the principal or exclusive (except as against the Government) rights in an invention remain in the contractor, unless the contractor, his licensee, or his assignee has taken effective steps within 3 years after a patent issues on the invention to bring the invention to the point of practical application or has made the invention available for licensing royalty free or on terms that are reasonable in the circumstances, or can show cause why he should retain the principal or exclusive rights for a further period of time, the Government shall have the right to require the granting of a license to an applicant on a nonexclusive royalty free basis.

(g) Where the principal or exclusive (except as against the Government) rights to an invention are acquired by the contractor, the Government shall have the right to require the granting of a license to an applicant royalty free or on terms that are reasonable in the circumstances to the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill health needs, or for other public purposes stipulated in the contract.

(h) Where the Government may acquire the principal rights and does not elect to secure a patent in a foreign country, the contractor may file and retain the principal or exclusive foreign rights subject to retention by the Government of at least a royalty free license for governmental purposes and on behalf of any foreign government pursuant to any existing or future treaty or agreement with the United States.

SEC. 2. Government-owned patents shall be made available and the technological advances covered thereby brought into being in the shortest time possible through dedication or licensing and shall be listed in official Government publications or otherwise.

SEC. 3. The Federal Council for Science and Technology in consultation with the Department of Justice shall prepare at least annually a report concerning the effectiveness of this policy, including recommendations for revision or modification as necessary in light of the practices and determinations of the agencies in the disposition of patent rights under their contracts. A patent advisory panel is to be established under the Federal Council for Science and Technology to—

(a) Develop by mutual consultation and coordination with the agencies common guidelines for the implementation of this policy, consistent with existing statutes, and to provide overall guidance as to disposition of inventions and patents in which the Government has any right or interest; and

(b) Encourage the acquisition of data by Government agencies on the disposition of patent rights to inventions resulting from federally financed research and development and on the use and practice of such inventions, to serve as basis for policy review and development; and

(c) Make recommendations for advancing the use and exploitation of Government-owned domestic and foreign patents.

SEC. 4. Definitions: As used in this policy statement, the stated terms in singular and plural are defined as follows for the purposes hereof:

(a) Government agency—includes any Executive department, independent commission, board, office, agency, administration, authority, or other Government establishment of the Executive Branch of the Government of the United States of America.

(b) "Invention" or "Invention or discovery"—includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(c) Contractor—means any individual, partnership, public or private corporation, association, institution, or other entity which is a party to the contract.

(d) Contract—means any actual or proposed contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(e) "Made"—when used in relation to any invention or discovery means the conception or first actual reduction to practice of such invention in the course of or under the contract.

(f) Governmental purpose—means the right of the Government of the United States (including any agency thereof, State, or domestic municipal government) to practice and have practiced (made or have made, used or have used, sold, or have sold) throughout the world by or on behalf of the Government of the United States.

(g) "To the point of practical application"—means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

Subpart 2–9.52—Recovery of Costs

§ 2–9.5200 Scope of subpart.

This subpart prescribes a Recovery of Costs clause and sets forth instructions for its use.

§ 2–9.5201 General.

Section 2–9.5003 states that it is Agency policy to recover the Agency's contributions toward research and development through royalties to the Government upon commercial exploitation of the products developed thereby. To carry out this policy, the contract clause set forth in § 2–9.5202(b) shall be inserted in the contract in accordance with the instructions for its use.

§ 2–9.5202 Recovery of costs.

(a) *Instructions for use of clause.* Insert the clause set forth paragraph (b) below in all contracts for design, research, development, test, or experimental work where a product (e.g., equipment or other items of hardware) is to be furnished as an end item. It may be included in other contracts as appropriate. The contracting officer may alter the clause to suit a particular situation. However, any such alterations must be in accordance with Agency regulations on recovery of costs, including Agency policy set forth in § 2–9.5003.

(b) *Contract clause.*

RECOVERY OF COSTS

(a) As may be determined by the contracting officer to be fair, reasonable and equitable, the contractor shall pay to the Government up to 5 percent of sums hereafter received by or credited to the contractor or its privies (including subcontractors) on sales or leases (exclusive of sales or leases to the U.S. Government, either directly or indirectly through Government prime contractors or subcontractors) of any product which is substantially the same in design as, or which is directly derived from, that developed by the contractor or any of its subcontractors in the performance of this contract.

(b) In selling or leasing the product identified in paragraph (a) above to the Government, either directly or indirectly through Government prime contractors or subcontractors, the contractor or its privies (including subcontracts) shall notify the purchaser or lessee in writing that the product was developed under a Federal Aviation Agency contract containing a Recovery of Costs clause and that the purchase or lease price of such product is less than the price of such product when sold or leased to others than the Government by an amount no less than the Government's share under the Recovery of Costs clause. A copy of each notice shall be sent to the contracting officer.

(c) As may be determined by the contracting officer to be fair, reasonable and equitable, the contractor shall also pay to the Government up to 33 percent of all sums hereafter received by, or credited to, the contractor or its privies (including subcontractors) as payments under technical agreements permitting others (1) to sell, lease, or manufacture the product identified in paragraph (a) above, or (2) to use any process which is substantially the same as, or which is directly derived from, that developed by the contractor or any of its subcontractors in the performance of this contract.

(d) Recovery by the Government under this clause shall be limited to amounts paid and credited to the contractor under this contract. Payments to the Government under this clause shall not be so high as to destroy the contractor's competitive position for the product involved: *Provided,* That the product is otherwise reasonably priced and efficiently and economically produced.

(e) The contractor shall report to the Government all sales, leases, licensing agreements, royalties, and receipts, which might reasonably be considered to be subject to this clause; and the contractor shall promptly render accurate, certified accounts thereon to the Government at reasonable intervals.

§ 2–9.5203 Administration of recovery of costs clause.

The administration of the recovery of costs clause is discussed in § 2–56.507 of this chapter.

Subpart 2–9.53—Rights in Data

§ 2–9.5300 Scope of subpart.

This subpart prescribes Rights in Data clauses and sets forth instructions for their use.

§ 2–9.5301 Rights in data.

Insert the contract clause set forth in § 2–9.5302 or § 2–9.5303 in accordance with § 2–9.5301–1.

§ 2–9.5301–1 Selection of appropriate Rights in Data clause.

(a) *Rights in data—unlimited.* The "Rights in Data—Unlimited" clause set forth in § 2–9.5302 shall be used where data (other than financial reports, cost analyses, and similar information incidental to contract administration) is specified to be delivered under the contract and such data is incidental to or a byproduct of the contract.

(b) *Rights in data—title.* The "Rights in Data—Title" clause set forth in § 2.9.-5303 is recommended for use in contracts where data (other than that incidental to contract administration) is specified to be delivered under the contract and the preparation of such data is the primary object or end item of the contract. Examples of contracts in which the use of this clause is recommended are contracts for: (1) The production of motion pictures with or without accompanying sound; (2) the preparation of motion picture scripts, musical compositions, sound tracks, translations, and the like; (3) work pertaining to training or career guidance; (4) survey of Government establishments; and (5) works pertaining to the instructions or guidance of Government officers and employees in the discharge of their official duties.

§ 2–9.5301–2 Alteration of clause.

The contracting officer may alter either of the Data clauses set forth below to suit a particular situation. However, any such alterations must be in accordance with Agency regulations on acquisition of rights in data, including § 2–9.5003.

§2–9.5302 Rights in Data—Unlimited Contract clause.

RIGHTS IN DATA—UNLIMITED

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproduction, drawings, or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses and similar information incidental to contract administration.

(b) (1) The Government may duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all subject data delivered under this contract.

(2) The contractor agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, irrevocable license throughout the world, to publish, translate, deliver, perform, dispose of, and to authorize others so do all Subject Data now or hereafter covered by copyright.

(3) The contractor shall report to the contracting officer promptly and in reasonably written detail, each notice or claim of copyright infringement with respect to all Subject Data delivered under this contract.

(c) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(d) The contractor shall not affix any restrictive markings upon any Subject Data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate or ignore any such markings.

§ 2–9.5303 Rights in Data—Title Contract clause.

RIGHTS IN DATA—TITLE

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings, or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses and other information incidental to contract administration.

(b) All "Subject Data" first produced in the performance of this contract shall be the sole property of the Government. The contractor agrees not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such Data. The contractor shall not publish or reproduce such Data in whole or in part, or in any manner or form, nor authorize others so to do, without the written consent of the Government until such time as the Government may have released such Data to the public.

(c) The contractor agrees to grant and does hereby grant to the Government and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world (1) to publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all Data not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract; and (2) to authorize others so to do.

(d) The contractor shall indemnify and save and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, (1) for violation of proprietary rights, copyrights or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any Data furnished under this contract, or (2) based upon any libelous or other unlawful matter contained in such Data.

(e) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Paragraphs (c) and (d) above are not applicable to material furnished to the contractor by the Government and incorporated in the work furnished under the contract; provided, such incorporated material is identified by the contractor at the time of delivery of such work.

PART 2–10—BONDS AND INSURANCE

Subpart 2–10.4—Insurance Under Fixed-Price Contracts

AUTHORITY: The provisions of this Part 2–10 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

Subpart 2–10.4—Insurance Under Fixed-Price Contracts

§ 2–10.401 Policy.

The clauses set forth in this § 2–10.401 shall, unless otherwise indicated by the specific instructions for their use, be inserted in any contract for the lease of aircraft (including aircraft used in out-service flight training).

§ 2–10.401–1 Loss or damage to leased aircraft clause.

(a) Except as provided in paragraph (b) of this section, insert the following clause:

LOSS OR DAMAGE TO LEASED AIRCRAFT

(a) The Government assumes all risk of loss or damage (except normal wear and tear) to the leased aircraft during the term of this lease while the aircraft is in the possession of the Government.

(b) In the event of damage to the aircraft, the Government may, at its option, make the necessary repairs with its own facilities or by contract, or pay the lessor the reasonable cost of repair of the aircraft.

(c) In the event the aircraft is lost or damaged beyond repair, the Government shall pay to the lessor a sum equal to the fair market value of the aircraft at the time of such loss or damage, unless a specific amount is indicated elsewhere in the contract, less the salvage value of the aircraft.

(d) The lessor certifies that the contract price does not include any cost attributable to hull insurance or to any reserve fund it has established to protect its interest in the aircraft. If, in the event of loss or damage to the leased aircraft, the lessor receives compensation for such loss or damage in any form from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received (1) solely as advances on insurance pending determination of Government liability, (2) for an increment of value of the aircraft beyond the value of which the Government is responsible.

(e) In the event of loss or damage of the aircraft, the Government shall be subrogated to all rights of recovery by the lessor against third parties for such loss or damage and such rights shall be immediately assigned to the Government. Except as the contracting officer may permit in writing, the contractor shall neither release nor discharge any third party from liability for such loss or damage nor otherwise compromise or adversely affect the Government's subrogation rights hereunder. The contractor shall cooperate with the Government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government under this clause shall, after a final finding and determination by the contracting officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

(b) In accordance with Order OA 4400.2, Assumption of Liability for Damage, Loss, or Destruction of Leased Aircraft, the clause need not be inserted in the contract:

(1) When the hourly rental rate does not exceed $250 and the total rental cost for any single transaction is not in excess of $2,500;

(2) Where the cost of hull insurance does not exceed 10% of the contract rate; or

(3) When the lessor's insuror does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

§ 2–10.401–2 Fair market value of aircraft clause.

When the contract is to set forth a specific amount of the fair market value of the aircraft, insert the following clause:

FAIR MARKET VALUE OF AIRCRAFT

It is agreed that the fair market value of the aircraft to be used in the performance of this contract is:

(a) $_____ or

(b) If the contractor has insured the same aircraft against loss or destruction in connection with other operations, the amount of such insurance on the most recent past date to the date of the loss or damage for which the Government may be responsible under this contract, whichever is lower.

§ 2–10.401–3 Risks and indemnities.

(a) *Background.* Section 504 of the Federal Aviation Act of 1958 provides "no lessor or any such aircraft * * * under a bona fide lease of *30 days or more,* shall be liable * * * by reason of this interest as lessor or owner of the aircraft * * * for any injury to or death of persons, or damage to or loss of property * * * *unless such aircraft * * * is in the actual possession or control of such person* at the time of such injury, death, damage or loss." (Italics supplied.) On all short-term or intermittent-use leases, therefore, the owner normally remains liable for damage caused by operation of the aircraft. It is usual for the aircraft owner to retain his insurance covering this liability during the term of such leases. Such insurance can, for little or no increase in premium, be made to cover the Government's exposure to liability as well. In order to take advantage of this coverage, the Risks and Indemnities clause prescribed in paragraph (c) of this section is used.

(b) *Use of risks and indemnities clause.* Insert the contract clause set forth in paragraph (c) of this section in (1) any out-service flight training contract, or in (2) any contract for the lease of aircraft where the Agency will have exclusive use of the aircraft for a period of less than 30 days.

(c) *Contract clause.*

RISKS AND INDEMNITIES

The contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits, and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents, or employees) arising out of the operation of the aircraft. In the event the contractor holds or obtains insurance in support of this covenant, a Certificate of Insurance shall be delivered to the contracting officer.

(d) *Contract schedule provision.* Any contract for out-service flight training shall include a provision in the Schedule stating substantially that the contractor's personnel shall, at all times during the course of the training, be in command of the aircraft, and that at no time shall Agency personnel be permitted to take command of the aircraft.

PART 2–15—CONTRACT COST PRINCIPLES AND PROCEDURES

Sec.

AUTHORITY: The provisions of this Part 2–15 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

§ 2–15.000 Scope of part.

This part contains general cost principles and procedures for use, where appropriate, for the determination and allowance of costs in connection with the negotiation and administration of certain contracts.

Subpart 2–15.1—Applicability [Reserved]

Subpart 2–15.2—Principles and Procedures for Use in Cost-Reimbursement Type Supply and Research Contracts With Commercial Organizations

§ 2.15.205–46 Travel costs.

(a) *Air travel.* The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would:

(1) Require circuitous routing;

(2) Require travel during unreasonable hours;

(3) Greatly increase the duration of the flight;

(4) Result in additional costs which would offset the transportation savings; or

(5) Offer accommodations which are not reasonably adequate for the medical needs of the traveler.

§ 2–15.250 Additional selected costs.

§ 2–15.250–1 Relocation costs.

(a) Relocation costs, for the purpose of this subpart, are costs incident to the permanent change of duty assignment of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to, cost of:

(1) Transportation of the employee, members of his immediate family and his household and personal effects to the new location;

(2) Finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period;

(3) Closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing;

(4) Other necessary and reasonable expenses normally incident to relocation, such as cost of canceling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property;

(5) Loss on sale of home; and

(6) Acquisition of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to paragraph (c) of this section, relocation costs of the type covered in paragraph (a) (1), (2), (3), and (4) of this section are allowable, provided (1) the move is for the benefit of the employer; (2) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (3) the costs are not otherwise unallowable, and (4) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under paragraph (b) of this section are subject to the following additional provisions: (1) The transition period for incurrence of costs of the type covered in paragraph (a) (2) of this section shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (2) allowance for costs of the type covered in paragraph (a) (3) of this section shall not exceed 8 percent of the sales price of the property sold. Costs of the type covered in paragraph (a) (3) and (4) of this section are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in paragraph (a) (5) and (6) of this section are not allowable.

PART 2–17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

Sec.

AUTHORITY: The provisions of this Part 2–17 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

§ 2–17.000 Scope of part.

This part designates an Agency official authorized to approve actions under Public Law 85–804 (hereinafter referred to as "the Act"), and establishes uniform Agency procedures for entering into and amending or modifying contracts to facilitate the national defense under the authority granted by the Act.

Subpart 2–17.1—General

§ 2–17.101 Authority.

(a) As stated in § 1–17.101 of this title, the Act empowers the President to authorize departments and agencies exercising functions in connection with the national defense to enter into contracts or into amendments or modifications of contracts without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever he deems that such action would facilitate the national defense.

(b) Executive Order 10789 of November 14, 1958, authorizes the Administrator of the Federal Aviation Agency, or his duly authorized representative, to perform or exercise all the functions and authority set forth in the Executive order.

§ 2–17.102 General policy.

§ 2–17.102–50 Delegation of authority.

The Associate Administrator for Development is the duly authorized representative of the Administrator in exercising the authority conferred by the Executive order. This authority may not be redelegated.

§ 2–17.103 Types of actions.

The following three types of actions may be taken by or pursuant to the direction of the Associate Administrator for Development:

(a) Contractual adjustments such as amendments without consideration, correction of mistakes, and formalization of informal commitments (see Subpart 1–17.2 of this title).

(b) Making advance payments (procedures for making such payments are set forth in Subpart 1–30.4 of this title).

(c) Exercise of "residual powers" which refers to all other authority under the Act (see Subpart 1–17.3 of this title).

§ 2–17.105 Reports.

The Chief, Procurement Policy and Standards Division, IM–600, is responsible for submitting to the Congress a report of all actions taken within the Agency, in accordance with the requirements contained in § 1–17.105 of this title.

§ 2–17.204 Standards for deciding cases.

§ 2–17.204–1 General.

No adjustment under the standards set forth in § 1–17.204 of this title may be made unless the request relates to a "defense contract," as defined in § 1–17.104 (c) of this title. Whether, in a particular case, the request by the contractor does, in fact, involve a "defense contract" and thus facilitate the national defense is a matter of sound judgment and must be made on the basis of all the facts of such case. To assure uniformity of action, the preliminary record required by § 1–17.401 of this title and any other pertinent data, facts, or evidence shall be forwarded to the Director, Installation and Materiel Service, for coordination with the General Counsel and determination of whether the request involves a "defense contract."

PART 2–60—CONTRACT APPEALS

Sec.

AUTHORITY: The provisions of this Part 2–60 issued under secs. 303, 813, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354.

§ 2–60.000 Scope of part.

This part establishes the Federal Aviation Agency Contract Appeals Panel, provides for designating for Chairman and members of the Panel, authorizes the members of the Panel to act, and prescribes its functions and procedures.

Subpart 2–60.1—Contract Appeals Panel

§ 2–60.101 Establishment.

The Federal Aviation Agency Contract Appeals Panel is established within the Office of the General Counsel. The General Counsel appoints the members of the Panel from attorneys of his office, and shall designate one of them as Chairman.

§ 2–60.102 Authority.

Members of the Contract Appeals Panel act for the Administrator of the Federal Aviation Agency in hearing and considering appeals by contractors from decisions made by contracting officers under contracts providing for such appeal to the Administrator, and other matters as directed by the Administrator. The Panel decides such appeals.

Subpart 2–60.2—Contract Appeal Procedures

§ 2–60.201 Notice of appeal.

An appeal from a decision of a contracting officer is made by sending a written notice of appeal to the Adminis-

trator, Federal Aviation Agency, directed to the attention of the contracting officer. The notice must be mailed or filed within 30 days after the date the decision of the contracting officer is received, unless a different time is provided in the contract. They must sign the notice, identify the contract involved and the decision appealed from, and state that he is appealing from that decision. A letter of complaint or a general letter objecting to some action taken is not a notice of appeal. The notice should be in triplicate, specify the portion or portions of the decision from which the appeal is taken, and state the reason why those portions are erroneous.

§ 2–60.202 Duties of the contracting officer.

Upon receiving a notice of appeal, the contracting officer shall endorse on the original and the copies the date of mailing, or the date of receipt if otherwise filed. He shall send the notice and one copy immediately to the Contract Appeals Panel for docketing. Within 15 days after the date he receives the notice, the contracting officer shall send a file, consisting of the following, to the Contract Appeals Panel:

(a) The findings of fact and the decision from which the appeal is taken, and the letters or other documents of claim in response to which the decision was issued;

(b) A copy of the contract and pertinent specifications, plans, drawings, modifications, change orders, and amendments;

(c) All correspondence between the parties relating to the dispute;

(d) Transcripts of any testimony taken in connection with the dispute, in addition to any affidavits or statements of any witnesses that were considered by the contracting officer in reaching his decision;

(e) A statement of the evidence leading to, and the basis for arriving at, the contracting officer's decision, citing pertinent letters and documents related to the decision; and

(f) Any additional data that the contracting officer may consider pertinent. The contracting officer may substitute a true copy for the original of any document named in paragraphs (a) through (f) of this section.

§ 2–60.203 Notice to appellant.

The Chairman of the Contract Appeals Panel shall notify the appellant that he has received the file, and shall advise him of his right to inspect the file and of his option to submit the matter on the record, to be heard at an administrative inquiry, or to be heard at an adversary hearing.

§ 2–60.204 Appellant's right to inspect record.

The contract appeals file and all documents, records, and evidentiary matter that are to be considered by the Panel in making its decision, are available for inspection by the appellant, while the appeal is pending, at the office of the Chairman of the Panel, and at any hearing that may be held. However, only persons having an appropriate security clearance may have access to any classified material.

§ 2–60.205 Designation of panel member to consider appeal.

The Chairman of the Contract Appeals Panel shall designate one member of the panel to act for the Panel. In cases of unusual complexity, more than one member may be designated. The member or members designated for that purpose shall not have participated directly in any aspect of the award or administration of the contract involved. The Chairman shall notify the appellant and the contracting officer of the designation. The designated panel member, or members, shall exercise the authority of the Panel in all matters, except that the decision is made by a majority of the panel members designated by the Chairman to decide the case.

§ 2–60.206 Request for hearing.

The appellant may request an oral hearing, by written notice to the Contract Appeals Panel within 30 days after the date he receives the Panel's notice to appellant under § 2–60.203, or if the contracting officer files additional material for the record under § 2–60.208 within 30 days after the date the appellant receives his copy of that material. The panel member to whom the appeal has been assigned shall fix the time and the place of the hearing, and shall notify the appellant and the contracting officer whose decision is appealed, at least 15 days before the hearing. Ordinarily, hearings are held at the headquarters of the Agency, in Washington, D.C., but they may be held at any other place designated by the member conducting the hearing, for good cause shown. The convenience of the parties will be considered.

§ 2–60.207 Appellant's election as to procedure.

(a) The appellant may elect to have the appeal considered upon:

(1) The written record, without oral inquiry or hearing (§ 2–60.208);

(2) An administrative inquiry (§ 2–60.209); or

(3) An adversary hearing (§§ 2–60.210 through 2–60.210–5);

(b) The appellant makes his election as follows:

(1) He elects to have the appeal considered on the written record if he does not request a hearing in accordance with § 2–60.206.

(2) He elects to have the appeal considered upon an administrative inquiry if he requests a hearing, but does not file a formal petition in accordance with § 2–60.210–1 or does not comply with any order the Panel issues requiring its amplification.

(3) He elects to have the appeal considered upon an adversary hearing if he files a petition in accordance with § 2–60.210–1 and complies with the orders of the Panel requiring its amplification.

§ 2–60.208 Procedure for submission on documentary record.

If the appellant does not request a hearing in accordance with § 2–60.206 the appeal is considered on the documentary record alone. The appellant may submit any additional relevant material for the record within 30 days after the date he receives the notice to appellant, under § 2–60.203 or within such additional time as may be permitted by the Panel. The contracting officer whose decision is appealed shall submit any answering material within 30 days after the date he receives the material submitted by the appellant. The appellant must submit any material in reply within 30 days after the date he receives the material submitted by the contracting officer. Further submission of additional material by either party, and extensions of time to submit, are permitted, or directed, at the discretion of the Panel. The appellant shall furnish copies to the contracting officer at the time of submission to the Panel. The contracting officer shall furnish copies to the appellant (except copies of the file initially sent to the Panel) at the time of submission to the Panel.

§ 2–60.209 Procedure for administrative inquiry.

If the appellant requests an oral hearing as provided in § 2–60.206, the appeal is heard at an administrative inquiry, unless the appellant files, with his request for hearing, a formal petition conforming to § 2–60.210–1, and to any orders of the Panel requiring its amplification. At the administrative inquiry, the panel member presiding shall receive evidence and arguments presented by or for the appellant and the contracting officer whose decision is appealed. The panel member shall limit the presentation to matters actually in issue, and obtain admissions, stipulations and concessions through questioning the parties. The parties may offer evidence or argument without regard to the formal rules of evidence. However, the panel member may refuse to receive any evidence or argument on matters not in issue or any repetitive, irrelevant, or improper material, and may refuse to receive any material that is not of sufficient probative weight to be considered substantial evidence. There is no right to cross-examine. The panel member may question a witness after his direct presentation, to develop any facts he considers relevant, and may at or after the hearing, make such further investigation and inquiry as he feels will help him to establish the facts of the case. The appellant and the contracting officer may submit additional written evidence or argument after the hearing within a time limit fixed by the Panel. Sections 2–60.210 through 2–60.210–5 does not apply to appeals heard at administrative inquiries.

§ 2–60.210 Procedure for adversary hearing.

The procedures for considering appeals upon adversary hearings are set forth in §§ 2–60.210–1 through 2–60.210–5.

§ 2–60.210–1 Petition.

To begin the procedure for considering an appeal upon an adversary hearing, the appellant must file a formal petition when he files his Request for Hearing under § 2–60.206 or within such time thereafter as may be allowed by the Panel. The formal petition must specify the errors in the contracting officer's decision; must set forth a short and plain statement of the facts that entitle the appellant to relief; must conform to the formal and substantive requirements for pleadings under Rules 8 through 11 of the Rules of Civil Procedures for the U.S. District Courts; and should also contain applicable citations of authority for the consideration of the Panel. The appellant must file two copies of the petition with the Panel, and one copy with the contracting officer from whose decision he has appealed.

§ 2–60.210–2 Answer.

If the appellant files a formal petition, the contracting officer shall file two copies of a formal answer thereto with the Panel, within 30 days after the date he receives the petition, unless a longer period is allowed by the Panel, and at the same time shall send one copy to the appellant. The answer must conform to the formal and substantive requirements for the formal petition. The Panel may, in its discretion, order the appellant to reply to an answer.

§ 2–60.210–3 Amendments to petition, answer, or reply.

The Panel may, in its discretion, upon conditions just to both parties, permit or require amendments to the petition, answer, or reply, at any time before completing the record upon or after hearing, but may not allow any amendment that substantially prejudices the other party.

§ 2–60.210–4 Motions.

Motions by the appellant or by the contracting officer are made by filing two copies of a notice thereof, together with any supporting papers, with the Panel, and furnishing one copy to the other party. The Panel shall consider any timely motion for extension of time to file; to cure defaults; to require that a petition, answer, or reply be made more definite and certain; to dismiss for lack of jurisdiction, to dismiss or grant summary relief because the petition, answer or reply does not raise a justiciable issue; to require a prehearing conference to reopen a hearing; to take depositions; to dismiss for failure to prosecute; or to reconsider a decision. In addition, the Panel may make its own motions, by furnishing a notice thereof to the parties. A party who receives a notice of motion has 20 days after the date he receives the notice to reply and file any answering material, unless a longer time is allowed by the Panel. Motions to reconsider a decision must be made within 30 days after the date of receipt of the decision, unless for good cause shown, the Panel permits a longer period of time. On all motions the Panel shall make orders that are appropriate and are just to the parties, and upon conditions that will promote efficiency in disposing of the appeal. The Panel may, in its discretion, permit oral hearing or argument and the presentation of briefs.

§ 2–60.210–5 Hearing.

The parties present the evidence at adversary hearings. Testimony is adduced through examination and cross-examination of witnesses. The formal rules of evidence do not apply, but the panel member may, upon objection or on his own motion, exclude evidence or disallow questions, on the grounds of irrelevance, impropriety, immateriality, or such insufficiency in probative weight as not to be considered substantial evidence. The panel member shall preside, and shall establish the general procedures for the introduction of evidence and the calling of witnesses. The panel may, in its discretion, order the submission of trial briefs before the hearing, and may order the submission of briefs at the completion of the hearings.

§ 2–60.211 General rules for administrative inquiries and hearings.

Administrative inquiries and adversary hearings are conducted as informally as may be reasonably allowable and appropriate under the circumstances. Testimony is not given under oath, but is considered to be representations made in connection with claims against the United States within the meaning of sections 287 and 1001 of Title 18, United States Code. The panel member shall invite the attention of witnesses to these provisions of the law. Testimony is reported verbatim, or recorded with an appropriate device. The Panel may accept true copies, so certified by the custodian thereof, in place of original exhibits.

§ 2–60.212 Representation of parties.

An individual appellant may prosecute his appeal in person; a corporation, by an officer, a partnership, by a member; and any appellant may be represented by an attorney. Other persons may be authorized by the Panel to represent an appellant in a particular case. The contracting officer is represented by Agency counsel.

§ 2–60.213 Settlement.

A dispute may be settled at any time before the decision by the contractor's filing a written notice withdrawing his appeal or by written stipulation between the contractor and the contracting officer or their counsel, settling the dispute.

§ 2–60.214 Decisions.

The Panel shall make its decision in writing, signed by the panel members designated by the Chairman to decide the case. Copies of the decision shall be sent at the same time to both parties. All orders and decisions of the Panel (except those required for good cause to be held confidential) are available for public inspection at the offices of the Contract Appeals Panel, Federal Aviation Agency, Washington, D.C.

[F.R. Doc. 66–13721; Filed, Dec. 22, 1966; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 60]

ALIENS SEEKING TO ENTER THE UNITED STATES TO PERFORM LABOR

Notice of Proposed Rule Making

Pursuant to section 212(a)(14) of the Immigration and Nationality Act of 1952, as amended by Public Law 89–236, I hereby propose to amend 29 CFR Part 60 as set forth herein.

The proposal is based on a finding that it is not necessary for aliens entering the United States for the purpose of performing labor in certain occupations to have a job offer as evidence that such admission will not adversely affect the wages and working conditions of workers in the United States.

Any person interested in this proposal may file a written statement of data, views, or argument regarding it with the Secretary of Labor, U.S. Department of Labor, Washington, D.C. 20210, within 15 days after this notice is published in the FEDERAL REGISTER.

1. Section 60.3 would be revised to read as follows:

§ 60.3 Request for certification not covered by § 60.2.

(a) Any alien, or person in his behalf, seeking admission to the United States under sections 101(a)(27)(A) (other than the parent, spouse, or child of a United States citizen or alien lawfully admitted to the United States for permanent residence), 203(a)(3), 203(a)(6), or 203(a)(8) whose category of employment is not included in the certification Schedule A or noncertification Schedule B described in § 60.2 or Schedule C referred to in paragraph (b) of this section may request a 212(a)(14) certification by filing a Form ES–575–A describing the alien's qualifications and a Form ES–575–B describing his prospective employment in the United States. These forms and instructions concerning their use, completion and transmission may be obtained from any consular office, any office of the Immigration and Naturalization Service, or any local office of a State Employment Service. These forms should not be filed directly with the U.S. Department of Labor in Washington, D.C.

(b) Any alien seeking admission to the United States otherwise subject to the provisions of paragraph (a) of this section whose category of employment is described in Schedule C may request a 212(a)(14) certification by filing a Form ES–575–A describing his qualifications and may omit filing a Form ES–575–B describing his prospective employment in the United States. Instructions for filing in these circumstances are available from U.S. State Department Consulates and Embassies and Immigration and Naturalization Service offices. Such instructions will require aliens to indicate where they will reside. When the U.S. State Department or the Immigration and Naturalization Service sends the ES–575–A's to the Department of Labor, all sources of labor in the area of residence will be reviewed and certification will be issued depending on the circumstances at that time. If the local review shows workers are available, the certification will not be issued. Applications should not be sent directly to the United States Department of Labor by the alien.

(c) Schedule C is a list of occupations which have been found to be in short supply generally, although not nationwide as in Schedule A. Schedule C is reviewed periodically to be sure that the list will be kept current. If information shows adverse effects are occurring from the use of immigrant workers, the occupation will be removed from Schedule C promptly.

2. Section 60.4 would be amended by adding the phrase "or prospective employer" after the words "Any alien." As amended, this section would read as follows:

§ 60.4 Reconsideration or review by the Secretary of Labor.

Any alien or prospective employer denied a certification pursuant to § 60.3 may request reconsideration or review by the Secretary of Labor. Requests for reconsideration or review should be made in writing to the Secretary of Labor, U.S. Department of Labor, Washington, D.C. 20210, and should set forth reasonable grounds therefor.

3. A new Schedule C would be added to the end of Part 60 to read as follows:

SCHEDULE C

Accounting Clerks.
Aircraft-Assemblers-Installers, General.
Airplane Inspectors.
Airplane Mechanics.
Airplane Pilots, Commercial.
Arc Welders.
Assemblers, Subassemblies, Aircraft.
Assembly Mechanics, Experimental Aircraft.
Automobile-Body Repairmen.
Automobile Mechanics.
Automobile Upholsterers.
Bakers.
Boring-Machine Operators.
Boring-Machine Set-Up Operators, Jig.
Boring-Mill Set-Up Operators, Horizontal.
Cabinetmakers.
Chassis Assemblers.
Chefs.
Clothes Designers.
Combination Welders.
Compositors.
Coppersmiths, Ship.
Cylindrical-Grinder Operators.
Dental-Laboratory Technicians.
Draftsmen.
Drop-Hammer Operators.
Electrical-Appliance Servicemen.
Electrical-Instrument Repairmen.
Electrical Repairmen.
Electricians, Airplane.
Electric-Motor Repairmen.
Electrocardiograph Technicians.
Electroencephalograph Technicians.
Electronics Mechanics.
Employment Interviewers.
Form Builders, Aircraft.
Gamma-Facilities Operators.
Household-Appliance Repairmen.
Inspectors, Floor.
Instrument Men, Aircraft.
Interior Decorators.
Jewelers.
Key-Punch Operators.
Linemen.
Loftsmen, Ship.
Machinists.
Maintenance Mechanics.
Maintenance Men, Building.
Maintenance Men, Factory or Mill.
Medical Technologists.
Milling-Machine Operators.
Millwrights.
Nurses' Aides.
Nurses, Practical.
Office-Machine Servicemen.
Orthoptists.
Patternmakers, Plaster, Aircraft.
Pipefitters, Ship.
Production Planners.
Psychiatric Aides.
Purchasing Agents.
Radio Repairmen.
Screw-Machine Operators, Production.
Secretaries.
Sheet-Metal Workers.
Shipfitters.
Shoe Repairmen.
Skilled Garment Occupations, Master Tailors and Dressmakers.
Specialty Cooks.
Stenographers.
Stonecutters, Hand.
Structural-Steel Workers.
Surgical Technicians.
Systems Engineers (Data-Processing).
Technicians, Engineering and Physical Sciences.
Television Service-and-Repairmen.
Template Makers, Aircraft.
Test-Reactor Operators.
Tool-and-Die Makers.
Tool-Grinder Operators.
Tool Planners.
Transcribing-Machine Operators.
Translators.
Turret-Lathe Operators.
Watchmakers.
Wheel-Alinement Mechanics.

OCCUPATIONAL DEFINITIONS

These definitions are intended as descriptive guidelines and not as mandatory qualification requirements.

ACCOUNTING CLERKS

Post details of business transactions; total accounts, using adding machines; and compute and record interest charges, refunds, cost of lost or damaged goods, freight or express charges, rentals, and other similar items.

AIRCRAFT-ASSEMBLERS-INSTALLERS, GENERAL

Join wings and tail assemblies to fuselages and install landing gears, power-plants, propellers, and equipment, such as doors, windows, bulkheads, and control stand arma-

ment assemblies, according to specifications, using wrenches, shears, drills, and rivet guns.

AIRPLANE INSPECTORS

Examine airframes, engines, and operating equipment to insure that repairs are made according to specifications, and certify airworthiness of aircraft.

AIRPLANE MECHANICS

Service, repair, and overhaul aircraft, and aircraft engines to insure safety and airworthiness. Involves such tasks as assembling wings, fuselages, landing gears, control cables, and fuel and oil tanks, using a variety of equipment; and testing engine operation, using testing equipment, to replace worn or damaged parts.

AIRPLANE PILOTS, COMMERCIAL

Pilot airplanes to transport passengers, mail, or freight, or for other commercial purposes.

ARC WELDERS

Weld metal parts together, as specified by layout, diagram, work orders, or oral instruction, using electric arc welding equipment.

ASSEMBLERS, SUBASSEMBLIES, AIRCRAFT

Assemble parts, such as spars, ribs, and braces to form structural subassemblies, such as air foils, rudders, flaps, stabilizers, elevators, ailerons, fins, fuselage tops and bulkheads, doorframes, doors and windows, according to specifications.

ASSEMBLY MECHANICS, EXPERIMENTAL AIRCRAFT

Fabricate, assemble, and install parts and assemblies, such as armaments, power plants, and plumbing and hydraulic systems in experimental aircraft or missiles.

AUTOMOBILE-BODY REPAIRMEN

Repair damaged bodies and body parts of automotive vehicles, such as automobiles and light trucks.

AUTOMOBILE MECHANICS

Repair and overhaul automobiles, buses, trucks, and other automotive vehicles. Involves such tasks as repairing shock absorbers and similar parts; relining or adjusting brakes, alining front ends; and rewiring ignition systems, lights, and instrument panels.

AUTOMOBILE UPHOLSTERERS

Repair or replace upholstery in automobiles, buses, and trucks.

BAKERS

Prepare bread, rolls, pastries, muffins, biscuits, or other baked goods according to recipes in bakery, hotel, restaurant, or other establishments. Measure and mix ingredients to form dough or batter. Cut dough and mold it into loaves or various desired shapes and pour batter into pans to make cakes. Place shaped dough in greased pans or batter in cake tins for baking in oven for specified period of time, adjusting controls to regulate temperature. Prepare and cook ingredients for pie fillings, puddings, custards, or other desserts.

BORING-MACHINE OPERATORS

Set up and operate one or more boring machines to bore, drill, mill, or ream metal parts according to specifications, tooling instructions, standard charts, and knowledge of boring procedures.

BORING-MACHINE SET-UP OPERATORS, JIG

Set up and operate machines to drill, bore, ream, or tap holes in metal workpieces, such as jigs, fixtures, dies, or gages, according to knowledge of tooling and jig-boring procedures.

BORING-MILL SET-UP OPERATORS, HORIZONTAL

Set up and operate horizontal boring, drilling, and milling machines to perform machining operations, such as milling, drilling, boring and reaming, on metal workpieces, such as machine, tool, or die parts, analyzing specifications and deciding on tooling according to knowledge of shop mathematics, metal properties, and machining procedures.

CABINETMAKERS

Construct and repair wooden articles, such as store fixtures, office equipment, cabinets, and high grade furniture, according to blueprints or drawings, using woodworking machines, and handtools. Trim parts of joints, bore holes, glue, fit, and clamp parts and subassemblies together to form complete unit.

CHASSIS ASSEMBLERS

Assemble chassis of electronic equipment, such as radio and television receivers, electric organs, and record players, using handtools and power tools and following wiring diagrams or sample assemblies.

CHEFS

Supervise, coordinate, and participate in activities of cooks and other personnel engaged in preparing and cooking foods in hotel, restaurant, or other establishments.

CLOTHES DESIGNERS

Create designs and prepare patterns for new types and styles of men's, women's and children's wearing apparel or knitted garments.

COMBINATION WELDERS

Weld metal parts together according to layouts, blueprints, or work orders, using both gas welding or brazing and any combination of arc welding processes.

COMPOSITORS

Set type by hand and machine, and assemble type and cuts in a galley, for the printing of articles, headings, and other printed matter, determing type, size, style, and compositional pattern from work order.

COPPERSMITHS, SHIP

Lay out, cut, bend, and assemble pipe sections, pipefittings, and other parts from copper brass, and other nonferrous metals according to blueprints to construct or repair ships and boats.

CYLINDRICAL-GRINDER OPERATORS

Set up and operate one or more external grinding machines to grind external cylindrical and tapered surfaces of rotating metal workpieces to blueprint specifications, following tooling instructions and standard charts, and applying knowledge of grinding procedures.

DENTAL-LABORATORY TECHNICIANS

Construct and repair dental appliances, such as crowns, inlays, and wire frames, according to dentist's prescriptions.

DRAFTSMEN

Prepare clear, complete, and accurate working plans and detail drawings from rough or detailed sketches or notes, engineering ideas, specifications, and calculations of engineers, architects, and designers for use in building or manufacturing.

DROP-HAMMER OPERATORS

Set up and operate closed-die drophammers to forge metal parts, following work order specifications and using measuring instruments and handtools.

ELECTRICAL-APPLIANCE SERVICEMEN

Install, service, and repair stoves, refrigerators, dishwashing machines, and other electrical household appliances, using handtools and test meters and following wiring diagrams and manufacturer's specifications.

ELECTRICAL-INSTRUMENT REPAIRMEN

Repair, calibrate, and test instruments, such as voltmeters, ammeters, resistance bridges, galvanometers, temperature, bridges, and temperature controlling and recording gages and instruments, using jewelers' handtools, electricians' tools, and measuring instruments.

ELECTRICAL REPAIRMEN

Repair, maintain, and install electrical systems and equipment, such as motors, transformers, wiring, switches, and alarm systems.

ELECTRICIANS, AIRPLANE

Install, adjust, and maintain electrical wiring, switches, and fixtures in airplanes.

ELECTRIC-MOTOR REPAIRMEN

Repair electric motors, generators, and accessory equipment, such as starting devices and switches, using handtools, power tools, precision gages, and electrical test instruments.

ELECTROCARDIOGRAPH TECHNICIANS

Record electromotive variations in action of heart muscle, using electrocardiograph machines, to provide data for diagnosis of heart ailments.

ELECTROENCEPHALOGRAPH TECHNICIANS

Measure impluse frequencies and differences in electrical potential between various portions of the brain, using equipment that records data as a series of irregular lines on a continuous graph to be used by medical practioners in diagnosing brain disorders.

ELECTRONICS MECHANICS

Repair electronic equipment, such as computers, industrial controls, radar systems, telemetering and missile control systems, transmitters, antennas, and servomechanisms, following blueprints and manufacturers' specifications, and using handtools and test instruments.

EMPLOYMENT INTERVIEWERS

Interview job applicants in employment agencies and refer them to prospective employers for consideration.

FORM BUILDERS, AIRCRAFT

Build forms, fixtures, or templates of wood, metal, or plastic for use in production of airplanes, following blueprints.

GAMMA-FACILITIES OPERATORS

Irradiate materials in a gamma canal (water-filled irradiating tank) for experimental purposes, and receive and store spent nuclear fuel elements and materials from completed experiments.

HOUSEHOLD-APPLIANCE REPAIRMEN

Repair gas and electric appliances and equipment, such as refrigerators, ranges, washing machines, hot-water heaters, toasters, and irons, using handtools.

INSPECTORS, FLOOR

Test or examine machinery parts, materials, and assemblies at assembly, inspection, or machining stations in machine shops, to insure conformance to blueprints or other specifications.

INSTRUMENT MEN, AIRCRAFT

Overhaul, repair, and test aircraft instruments, using precision handtools and following blueprints, work orders, and manufacturers' specifications.

INTERIOR DECORATORS

Plan and design artistic interiors for homes, hotels, ships, commercial and institutional structures, and other establishments.

JEWELERS

Fabricate and repair various jewelry articles, such as rings, brooches, pendants, bracelets, and lockets.

KEY-PUNCH OPERATORS

Operate alphabetic and numeric key-punch machines, similar to operation to electric typewriters, to transcribe data from source material onto punch cards and produce prepunched data.

LINEMEN

Erect wood poles and prefabricated light-duty metal towers, cables, and related equipment to construct transmission and distribution powerlines and to conduct electrical energy between generating stations, substations and consumers.

LOFTSMEN, SHIP

Lay out lines of ship to full scale on mold-loft floor and construct templates and molds to be used as patterns and guides for layout fabrication of various structural parts of ships.

MACHINISTS

Set up and operate machine tools, and fit and assemble parts to make or repair metal parts, mechanisms, tools, or machines, applying knowledge of mechanics, shop mathematics, metal properties, and layout machining procedures.

MAINTENANCE MECHANICS

Repair and maintain, in accordance with diagrams, sketches, operation manuals, and manufacturer's specifications, machinery and mechanical equipment, such as cranes, pumps, engines, motors, pneumatic tools, conveyor systems, production machines, and automotive and construction equipment, using handtools, power tools, and precision-measuring and testing instruments.

MAINTENANCE MEN, BUILDING

Repair and maintain physical structures of commerical and industrial establishments, such as factories, office buildings, apartment houses, and logging and mining constructions, using handtools and power tools.

MAINTENANCE MEN, FACTORY OR MILL

Repair and maintain machinery, plumbing, physical structures, and electrical wiring and fixtures of commercial and industrial establishments in accordance with blueprints, manuals, and building codes, using carpenters', electricians', and plumbers' handtools.

MEDICAL TECHNOLOGISTS

Apply technical knowledge in fields of medicine and perform chemical microscopic, and bacteriologic tests to provide data for use in treatment and diagnosis of diseases, usually under supervision of physician.

MILLING-MACHINE OPERATORS

Set up and operate one or more milling machines to mill plane or curved surfaces on metal workpieces, such as machine, tool, or die parts, according to specifications and deciding on tooling according to knowledge of milling procedures.

MILLWRIGHTS

Install machinery and equipment according to layout plans, blueprints, and other drawings in an industrial establishment, using hoists, lift trucks, handtools, and power tools.

NURSES' AIDES

Assist in care of hospital patients, under direction of nursing and medical staff. Involves such tasks as bathing, dressing, and undressing patients; serving and collecting food trays; transporting patients to treatment units; taking and recording temperature, pulse, and respiration rates; changing bed linens, running errands, and directing visitors.

NURSES, PRACTICAL

Care for patients and children in private homes, hospitals, sanitariums, industrial plants, and similar institutions.

OFFICE-MACHINE SERVICEMEN

Repair and service office machines, such as adding, accounting, calculating machines, and typewriters, using handtools, power tools, micrometers, and welding equipment.

ORTHOPTISTS

Teach persons with correctable focusing defects to develop and use binocular vision (focusing of both eyes). Measure visual acuity, focusing ability, and eye-motor movement of eyes, separately and jointly, using various equipment.

PATTERNMAKERS, PLASTER, AIRCRAFT

Build plaster and clay patterns used for making sand molds from which tools and parts used in aircraft manufacturing are cast.

PIPEFITTERS, SHIP

Lay out, install, and maintain ships' piping systems, such as steam heat and power, hot water, hydraulic, air pressure, and oil lines, following blueprints and using handtools and shop machines.

PRODUCTION PLANNERS

Plan and prepare production schedules for manufacture of industrial or commercial products.

PSYCHIATRIC AIDES

Assist mentally ill patients, working under direction of nursing and medical staff. Involves such tasks as bathing, dressing, and grooming patients; accompanying patients to and from wards for treatment and examination, and administering prescribed medications; encouraging patients to participate in social and recreational activities; observing patients to insure that none wander from grounds or to detect unusual behavior; and restraining or aiding them to prevent injury to themselves or other patients.

PURCHASING AGENTS

Purchase machinery, equipment, tools, raw materials, parts, services, and supplies necessary for operation of an organization, such as an industrial establishment, public utility, or government unit.

RADIO REPAIRMEN

Repair radio receivers, phonographs, recorders, and other electronic-audio equipment, using circuit diagrams, test meters and handtools.

SCREW-MACHINE OPERATORS, PRODUCTION

Tend one or more previously set up single-or-multiple spindle screw machines, equipped with automatic indexing and feeding mechanisms, to perform series of machining operations on metal bar stock on production basis.

SECRETARIES

Schedule appointments, give information to callers, take dictation, type, and otherwise relieve officials of clerical work and minor administrative and business details.

SHEET-METAL WORKERS

Fabricate, assemble, install, and repair sheet metal products and equipment, such as control boxes, drainpipes, ventilators, and furnace castings, according to job order or blueprints.

SHIPFITTERS

Lay out and fabricate metal structural parts, such as plates, bulkheads, and frames, and braces them in position within hull of ship for riveting or welding to construct or repair ships and boats.

SHOE REPAIRMEN

Repair or refinish shoes, following customers' specifications, or according to nature of damage, or type of shoe.

SKILLED GARMENT OCCUPATIONS, MASTER TAILORS AND DRESSMAKERS

Perform all tasks required to design and produce finished made-to-measure garments or perform equivalent tasks requiring tailoring skills in the manufacture or alteration of ready-made or tailored apparel. Such persons must be all-around skilled tailors capable of performing all the tasks involved in the tailoring or dressmaking crafts. (Five years training is generally necessary for satisfactory work performance in this field.)

SPECIALTY COOKS

Prepare, season, and cook soups, meats, vegetables, desserts, and other foodstuffs for consumption in restaurants or other establishments.

STENOGRAPHERS

Take dictation, in shorthand, of correspondence, reports, and other matter, and transcribe dictated material, using typewriter.

STONECUTTERS, HAND

Cut, shape, and finish granite, marble, and/or other types of stone according to diagrams or patterns.

STRUCTURAL-STEEL WORKERS

Raise, place, and unite girders, columns, and other structural-steel members to form completed structures or structure frameworks, working as members of a crew.

SURGICAL TECHNICIANS

Perform a variety of tasks before and during operation to assist medical team. Involves such tasks as washing, shaving, and sterilizing operative area of patients; placing equipment and supplies in operating room according to surgeon's direction, and arranging instruments; maintaining supply of specified fluids during operation; adjusting lights and equipment as directed; and washing and sterilizing used equipment.

SYSTEMS ENGINEERS (DATA-PROCESSING)

Study information-assembling and filing problems of establishment, plan suitable punched-card procedure, and design card and report forms. Revise and refine existing punched-card procedures in line with technical developments, and prepare instruction manuals covering use and maintenance of machines.

TECHNICIANS, ENGINEERING AND PHYSICAL SCIENCES

Solve practical problems encountered in fields of specialization, such as those concerned with development of electrical and electronic circuits, and establishment of testing methods for electrical, electronic, electromechanical, and hydromechanical devices and mechanisms. Apply engineering principles and techniques to solve, design, develop, and modify problems of parts or assemblies for products or systems. Apply natural and physical science principles to basic or applied research problems in fields such as metallurgy, chemistry, and physics. Technicians in these various fields work in direct support of engineers and scientists, utilizing theoretical knowledge of fundamental scientific, engineering, mathematical, or draft design principles.

TELEVISION SERVICE-AND-REPAIRMEN

Repair and adjust radios and television receivers, using handtools and electronic testing instruments.

TEMPLATE MAKERS, AIRCRAFT

Design and fabricate templates of wood, paper, sheet metal, and plastic used for laying out reference points and dimensions on metal plates, sheets, tubes and structural shapes for fabricating, welding, and assembling into structural metal products.

TEST-REACTOR OPERATORS

Set up and control operation of nuclear reactors in which neutrons and gamma rays are used to study structure of atoms, determine properties of materials, and create radioisotopes and radio-active fission products for research purposes.

TOOL-AND-DIE MAKERS

Analyze variety of specifications, lay out metal stock, set up and operate machine tools, and fit and assemble parts to make and repair metalworking dies, cutting tools, jigs, fixtures, gages, and machinists' handtools, applying knowledge of tool and die designs and construction, shop mathematics, metal properties, and layout, machining, and assembly procedures.

TOOL-GRINDER OPERATORS

Set up and operate grinding machines, such as surface and universal, carbide, drill, and tool-and-cutter grinders, to sharpen cutting tools to specifications, using knowledge of abrasives and metal properties.

TOOL PLANNERS

Determine tools, fixtures, and equipment to be used and plan sequence of operations for fabrication and assembly of products, such as airplane assemblies, automobile parts, cutting tools, and ball bearings.

TRANSCRIBING-MACHINE OPERATORS

Transcribe letters, reports, or other recorded data, using transcribing (voice reproducing) machine and typewriter.

TRANSLATORS

Translate various documents from one language to another language.

TURRET-LATHE OPERATORS

Set up and operate turret lathes to perform series of machining operations, such as turning, facing, boring, and tapping, or metal pieces, such as machine, tool, or die parts, analyzing specifications and deciding on tooling according to knowledge of machining operations.

WATCHMAKERS

Repair, clean, and adjust mechanisms of instruments, such as watches, time-clocks, and timing switches, using handtools and measuring instruments.

WHEEL-ALINEMENT MECHANICS

Aline wheels, axles, frames, torsion bars, and steering mechanisms of automotive vehicles, such as automobiles, buses, and trucks.

II

Any person with a professional occupation, or who has exceptional ability in the sciences or arts, as determined by U.S. Consular officials or the Immigration and Naturalization Service, as the case may require, and whose occupation is not listed on Schedule A.

(79 Stat. 911)

Signed at Washington, D.C., this 20th day of December 1966.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 66-13820; Filed, Dec. 22, 1966; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 39]

[Docket No. 7818]

AIRWORTHINESS DIRECTIVES

Brantly B-2 Series Helicopters

The Federal Aviation Agency is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Brantly B-2 Series helicopters. There have been failures of the upper main rotor mast bearing, Fafnir P/N 212K on these helicopters. The failures have been attributed to lack of adequate lubrication, and corrosion from possible moisture. It has been found that the use of a prepacked and sealed bearing in place of the open bearing in use alleviates the condition. The purpose of this AD would be to provide for the replacement of the open bearings by the prepacked bearings, since its failure could result in loss of control of the helicopter.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. All communications received on or before January 23, 1967, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRANTLY. Applies to Model B-2, B-2A, and B-2B Model helicopters with P/N B2-324 transmission serial numbers prior to S/N 307.

Compliance required as indicated.

To improve the service life and reliability of the upper main rotor mast bearing, within the next 100 hours' tiime in service after the effective date of this AD, remove the Fafnir P/N 212K bearing presently installed and replace it with an Indiana Gear Works P/N 4524A56, Revision E, sealed bearing. This substitution is to be accomplished as prescribed by Brantly Helicopter Co. Service Bulletin No. 21 and applicable sections of the Model B-2 series helicopter maintenance manuals.

Issued in Washington, D.C., on December 16, 1966.

JAMES F. RUDOLPH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 66-13758; Filed, Dec. 22, 1966; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66-EA-90]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a part-time 700-foot-floor transition area for Sussex Airport, Sussex, N.J.

A new VOR instrument approach procedure to the Sussex Airport, Sussex, N.J., has been authorized. To provide airspace protection for IFR arrival and departure procedures for this airport a designation of a part-time 700-foot-floor transition area will be required.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Agency officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The Federal Aviation Agency, having completed a review of the airspace requirements for the terminal area of Sussex, N.J., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a part-time 700-foot-floor transition area for Sussex Airport, Sussex, N.J., as follows:

SUSSEX, N.J.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (41°12'00" N., 74°37'25" W.)

of Sussex Airport, Sussex, N.J.; within 2 miles each side of the Sparta, N.J. VOR 334° radial extending from the 5-mile radius area to the VOR; within 2 miles each side of the centerline of Runway 3 extended to 9 miles NE of the end of the runway; within 2 miles each side of the centerline of Runway 21 extended to 10 miles SW of the end of the runway; within 2 miles each side of the centerline of Runway 26 extended to 12 miles W of the end of the runway; within 2 miles each side of the centerline of Runway 8 extended to 10 miles E of the end of the runway, excluding the portion within the Andover, N.J., 700-foot-floor transition area. This transition area shall be in effect from sunrise to sunset daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on December 9, 1966.

OSCAR BAKKE,
Director, Eastern Region.

[F.R. Doc. 66-13763; Filed, Dec. 22, 1966; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66-EA-96]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Agency is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Manchester, N.H., control zone.

The U.S. Air Force has an additional requirement for a full-time control zone designation for Manchester, N.H., through March 31, 1967. The Manchester RBN, a non-Federal navigational aid is used as a reference point in the controlled airspace description. Therefore the geographic coordinates must be included in the description of the Manchester, N.H., control zone.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 20 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The Federal Aviation Agency, having completed a review of the airspace requirements for the terminal area of Manchester, N.H., proposes the airspace action hereinafter set forth.

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Manchester, N.H., control zone as follows:

1. In the text following the words, "Manchester RBN" add "(42°52'12" N., 71°23'52" W.)."

2. In the text delete the sentence "On and after 0001 e.s.t., February 1, 1967, the zone will be effective from 0600 to 2300 hours, local time, daily." and insert in lieu thereof the sentence, "On and after 0001 e.s.t., April 1, 1967, the zone will be effective from 0700 to 2300 hours, local time, daily.".

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on December 5, 1966.

MARTIN J. WHITE,
Acting Regional Director, Eastern Region.

[F.R. Doc. 66-13765; Filed, Dec. 22, 1966; 8:45 a.m.]

[14 CFR Part 73]

[Airspace Docket No. 66-EA-38]

RESTRICTED AREA

Proposed Alteration

The Federal Aviation Agency is considering an amendment to Part 73 of the Federal Aviation Regulations that would change the boundaries, altitudes and the time of designation of Restricted Area R-4101 at Camp Edwards, Mass.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The U.S. Army has requested that the boundaries of R-4101 be modified to accommodate additional testing of weapons and ammunition. In addition to the aforementioned modification, the Army has agreed to a reduction in the area's ceiling and time of use and a change in the area's northwestern boundary to eliminate that portion of the area which presently overlies the Cape Cod Canal and the New York, New Haven and Hartford Railroad.

In view of the foregoing, it is proposed that the designation of R-4101 Camp Edwards, Mass., be amended as follows:

Boundaries. A circle with a 3-mile radius centered at latitude 41°43'30" N., longitude 70°32'30" W.; excluding the portion NW of a line extending from latitude 41°44'30" N., longitude 70°35'45" W.; to latitude 41°45'07" N., longitude 70°34'30" W.; to latitude 41°45'53" N., longitude 70°33'47" W., and excluding the portion SE of a line extending from latitude 41°40'54" N., longitude 70°-32'52" W.; to latitude 41°42'02" N., longitude 70°31'37" W.; to latitude 41°41'42" N., longitude 70°30'55" W.; to latitude 41°42'20" N., longitude 70°30'16" W.; to latitude 41°42'42" N., longitude 70°30'51" W.; to latitude 41°44'17" N., longitude 70°29'11" W.

Designated altitudes. Surface to 9,000 feet MSL.

Time of designation. From 0600 to 1800 hours local time, daily, other times as specified in a NOTAM issued 48 hours in advance.

Controlling agency. No change.

Using agency. No change.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 14, 1966.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 66-13766; Filed, Dec. 22, 1966; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 907]

HANDLING OF NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment for 1966-67 Fiscal Year

Consideration is being given to the following proposals submitted by the Navel Orange Administrative Committee, established under Marketing Agreement No. 117, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee during the period from November 1, 1966, through October 31, 1967, will amount to $296,000 and (2) that there be fixed, at $0.013 per carton of oranges, the rate of assessment payable by each handler in accordance with § 907.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should

file same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: December 19, 1966.

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

[F.R. Doc. 66-13781; Filed, Dec. 22, 1966; 8:47 a.m.]

[7 CFR Part 1004]

[Docket Nos. AO-160-A28, AO-160-A29]

MILK IN DELAWARE VALLEY MARKETING AREA

Notice of Extension of Time for Filing Exceptions to Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Delaware Valley marketing area, which was issued December 8, 1966 (31 F.R. 15670), is hereby extended to January 27, 1967.

Signed at Washington, D.C., on December 20, 1966.

CLARENCE H. GIRARD,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 66-13797; Filed, Dec. 22, 1966; 8:48 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

ASSISTANT ADMINISTRATOR FOR DEVELOPMENT FINANCE AND PRIVATE ENTERPRISE

Redelegation of Authority Relating to Investment Surveys and Investment Guaranties

Pursuant to the authority delegated to me by Delegation of Authority No. 33, as amended, from the Administrator of AID, dated February 3, 1964 (29 F.R. 2430), and by Delegation of Authority No. 39, as amended, from the Administrator of AID, dated April 13, 1964 (29 F.R. 5355), I hereby redelegate authority as follows:

(1) To the Associate Assistant Administrator for Private Enterprise, or in his absence to the Deputy Assistant Administrator for Development Finance, to participate in financing surveys of investment opportunities under section 231 of the Foreign Assistance Act of 1961, as amended, and in connection therewith to make the determinations and exercise the functions provided for in the cited section;

(2) To the Chief, Investment Survey Division, to extend the time in which a decision to invest may be made;

(3) To the Chief, Specific Risk Guaranty Division, or to any person who is performing the functions of Chief, Specific Risk Guaranty Division, in an "Acting" capacity, to authorize and issue investment guaranties under section 221(b)(1) of the Foreign Assistance Act of 1961, as amended, covering investments, as described in the Special Terms and Conditions of such guaranty contracts, of up to $250,000 and in connection therewith to make the related approvals and determinations provided in sections 221(a), 221(b), 221(c), and 222(a) of the said Act;

(4) To the Associate Chief, Specific Risk Guaranty Division, to consent to assignments of any contract of guaranty issued under section 221(b)(1) of the Foreign Assistance Act of 1961, under section 413(b)(4)(B) of the Mutual Security Act of 1954 or section 111(b)(3) of the Economic Cooperation Act of 1948, all as originally enacted and as amended, provided such assignments run to entities eligible to be issued investment guaranties under the legislation in force at the time of the assignment;

(5) To the Associate Chief, Specific Risk Guaranty Division and concurrently to the Chief, International Loan Branch, Accounting Division, to issue written notice of delinquency to any investor who has failed to pay any fee due under any contract of guaranty issued under section 221(b)(1) of the Foreign Assistance Act of 1961 under section 111(b)(3) of the Economic Cooperation Act of 1948, or under section 413(b)(4)(B) of the Mutual Security Act of 1954, all as originally enacted and as amended, and further to cancel any contract of guaranty when the investor covered thereunder has failed to pay the delinquent fee thereon within thirty (30) days following written notice of delinquency.

The authorities herein delegated may not be redelegated. This redelegation of authority is effective as of the date hereof.

Dated: November 28, 1966.

HERBERT SALZMAN,
Assistant Administrator for Development Finance and Private Enterprise.

[F.R. Doc. 66-13778; Filed, Dec. 22, 1966; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

AREA MANAGERS

Delegation of Authority

In accordance with Bureau Order No. 701 dated July 24, 1964, as amended, the area managers of Cedar and Dixie Resource Areas of the Cedar City District, Utah, are hereby authorized to perform in their respective areas, in accordance with existing policies, regulations, and procedures, and under the direct supervision of the district manager, functions of the Bureau of Land Management as listed below:

1. *Trespass.* Determine liability and accept payments for damages resulting from trespass on the public lands and dispose of resources recovered in trespass cases for not less than the appraised value thereof, limited to cases where values do not exceed $100.

2. *Resource management.* Take all actions pertinent to issuance of licenses to graze or trail livestock on public lands; issue permits or cooperative agreements for construction or maintenance of range improvements; dispose of forest products and other materials by sale or free use where the individual transaction does not involve values of over $100.

3. *General and miscellaneous matters.* The area managers have full administrative responsibilities for their areas within the framework of the approved Annual Work Plan except as limited by administrative determination of the district manager on bureau form 1213-1, "District Office Authority and Responsibility Guide."

This order will become effective upon publication in the FEDERAL REGISTER.

Dated: December 15, 1966.

LYNN T. LEISHMAN,
District Manager.

Approved:

R. D. NIELSON,
State Director.

[F.R. Doc. 66-13772; Filed, Dec. 22, 1966; 8:46 a.m.]

AREA MANAGERS

Delegation of Authority

In accordance with Bureau Order No. 701 dated July 24, 1964, as amended, the area managers of Delta, Fillmore, and Milford Resource Areas of the Fillmore District, Utah, are hereby authorized to perform in their respective areas, in accordance with existing policies, regulations, and procedures, and under the direct supervision of the district manager, functions of the Bureau of Land Management as listed below:

1. *Trespass.* Determine liability and accept payments for damages resulting from trespass on the public lands and dispose of resources recovered in trespass cases for not less than the appraised value thereof, limited to cases where values do not exceed $100.

2. *Resource management.* Take all actions pertinent to issuance of licenses to graze or trail livestock on public lands; issue permits or cooperative agreements for construction or maintenance of range improvements; dispose of forest products and other materials by sale or free use where the individual transaction does not involve values of over $100.

3. *General and miscellaneous matters.* The area managers have full administrative responsibilities for their areas within the framework of the approved Annual Work Plan except as limited by administrative determination of the district manager on bureau form 1213-1, "District Office Authority and Responsibility Guide."

This order will become effective upon publication in the FEDERAL REGISTER.

Dated: December 15, 1966.

W. D. BAUGH,
District Manager.

Approved:

R. D. NIELSON,
State Director.

[F.R. Doc. 66-13773; Filed, Dec. 22, 1966; 8:46 a.m.]

AREA MANAGERS

Delegation of Authority

In accordance with Bureau Order No. 701, dated July 24, 1964, as amended, the area managers of Sevier, Wonder-

land, and Henry Mountain Resource Areas of the Richfield District, Utah, are hereby authorized to perform in their respective areas, in accordance with existing policies, regulations, and procedures, and under the direct supervision of the district manager, functions of the Bureau of Land Management as listed below:

1. *Trespass.* Determine liability and accept payments for damages resulting from trespass on the public lands and dispose of resources recovered in trespass cases for not less than the appraised value thereof, limited to cases where values do not exceed $100.

2. *Resource management.* Take all actions pertinent to issuance of licenses to graze or trail livestock on public lands; issue permits or cooperative agreements for construction of maintenance of range improvements; dispose of forest products and other materials by sale or free use where the individual transaction does not involve values of over $100.

3. *General and miscellaneous matters.* The area managers have full administrative responsibilities for their areas within the framework of the approved Annual Work Plan except as limited by administrative determination of the district manager on bureau form 1213–1, "District Office Authority and Responsibility Guide."

This order will become effective upon publication in the FEDERAL REGISTER.

Dated: December 15, 1966.

EVAN L. RASMUSSEN,
District Manager.

Approved:

R. D. NIELSON,
State Director.

[F.R. Doc. 66–13774; Filed, Dec. 22, 1966; 8:46 a.m.]

AREA MANAGERS

Delegation of Authority

In accordance with Bureau Order No. 701 dated July 24, 1964, as amended, the area managers of Canyons, Grand, and San Juan Resource Areas of the Monticello District, Utah, are hereby authorized to perform in their respective areas, in accordance with existing policies, regulations, and procedures, and under the direct supervision of the Monticello District Manager, functions of the Bureau of Land Management as listed below; subject to the limitations of Bureau Order No. 701, Part III.

1. *Trespass.* Determine liability and accept payments for damages resulting from trespass on the public lands and dispose of resources recovered in trespass cases for not less than the appraised value thereof, limited to cases where values do not exceed $100.

2. *Resource management.* Take all actions pertinent to issuance of licenses to graze or trail livestock on public lands; issue permits or cooperative agreements for construction or maintenance of range improvements; dispose of forest products and other materials by sale or free use where the individual transaction does not involve values of over $100.

3. *General and miscellaneous matters.* The area managers have full administrative responsibilities for their areas within the framework of the approved Annual Work Plan except as limited by administrative determination of the district manager on bureau form 1213–1, "District Office Authority and Responsibility Guide."

This order will become effective upon publication in the FEDERAL REGISTER.

Dated: December 15, 1966.

ROBERT E. ANDERSON,
District Manager.

Approved:

R. D. NIELSON,
State Director.

[F.R. Doc. 66–13775; Filed, Dec. 22, 1966; 8:46 a.m.]

AREA MANAGERS

Delegation of Authority

In accordance with Bureau Order No. 701 dated July 24, 1964, as amended, the area managers of Price, Ferron, and San Rafael Resource Areas of the Price District, Utah, are hereby authorized to perform in their respective areas, in accordance with existing policies, regulations, and procedures, and under the direct supervision of the district manager, functions of the Bureau of Land Management as listed below:

1. *Trespass.* Determine liability and accept payments for damages resulting from trespass on the public lands and dispose of resources recovered in trespass cases for not less than the appraised value thereof, limited to cases where values do not exceed $100.

2. *Resource management.* Take all actions pertinent to issuance of licenses to graze or trail livestock on public lands; issue permits or cooperative agreements for construction or maintenance of range improvements; dispose of forest products and other materials by sale or free use where the individual transaction does not involve values of over $100.

3. *General and miscellaneous matters.* The area managers have full administrative responsibilities for their areas within the framework of the approved Annual Work Plan except as limited by administrative determination of the district manager on bureau form 1213–1, "District Office Authority and Responsibility Guide."

This order will become effective upon publication in the FEDERAL REGISTER.

Dated: December 15, 1966.

LORIN J. WELBER,
District Manager.

Approved:

R. D. NIELSON,
State Director.

[F.R. Doc. 66–13776; Filed, Dec. 22, 1966; 8:46 a.m.]

AREA MANAGERS

Delegation of Authority

In accordance with Bureau Order No. 701 dated July 24, 1964, as amended, the area managers of Mountain, River, and Bookcliff Resource Areas of the Vernal District, Utah, are hereby authorized to perform in their respective areas, in accordance with existing policies, regulations, and procedures, and under the direct supervision of the district manager, functions of the Bureau of Land Management as listed below:

1. *Trespass.* Determine liability and accept payments for damages resulting from trespass on the public lands and dispose of resources recovered in trespass cases for not less than the appraised value thereof, limited to cases where values do not exceed $100.

2. *Resource management.* Take all actions pertinent to issuance of licenses to graze or trail livestock on public lands; issue permits or cooperative agreements for construction or maintenance of range improvements; dispose of forest products and other materials by sale or free use where the individual transaction does not involve values of over $100.

3. *General and miscellaneous matters.* The area managers have full administrative responsibilities for their areas within the framework of the approved Annual Work Plan except as limited by administrative determination of the district manager on bureau form 1213–1, "District Office Authority and Responsibility Guide."

This order will become effective upon publication in the FEDERAL REGISTER.

Dated: December 15, 1966.

O'DELL A. FRANDSON,
District Manager.

Approved:

R. D. NIELSON,
State Director.

[F.R. Doc. 66–13777; Filed, Dec. 22, 1966; 8:46 a.m.]

Fish and Wildlife Service

[Docket No. A–412]

M/V SEA QUAIL

Notice of Loan Application

DECEMBER 19, 1966.

Arnold T. and Michael R. Hansen, doing business as M/V Sea Quail, Post Office Box 663, Kodiak, Alaska 99615, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 74.4-foot registered length wood vessel to engage in the fishery for king crab.

Notice is hereby given pursuant to the provisions of Public Law 89–85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington,

D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

HAROLD E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 66-13770; Filed, Dec. 22, 1966; 8:46 a.m.]

[Docket No. G-382]

E. W. WHITFORD

Notice of Loan Application

DECEMBER 19, 1966.

E. W. Whitford, Post Office Box 1044, Freeport, Tex. 77541, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchasing of a used 48-foot registered length wood vessel to engage in the fishery for shrimp.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operations of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

HAROLD E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 66-13771; Filed, Dec. 22, 1966; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI67-191 etc.]

H. L. HUNT ET AL.

Order Accepting Contract Amendment, Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

DECEMBER 15, 1966.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI67-191	H. L. Hunt, 1401 Elm St., Dallas, Tex. 75202, Attn: Donald K. Young, Esq.	12	[2] 8	Southern Natural Gas Co. (Lake Enfermer Field, Lafourche Parish, La.) (Southern Louisiana).	$11,250	11-25-66	[3] 1-16-67	6-16-67	[7] 19.75	[4] [5] [6] 21.25	
	do	18	5	Texas Gas Transmission Corp. (Oberlin Field, Allen Parish, La.) (Southern Louisiana).	(8)	11-25-66	[3] 1- 1-67	6- 1-67	[7] 20.25	[6] [7] 21.75	RI62-228.
RI67-192	Lyda Hunt-Bunker Trusts, 1401 Elm St., Dallas, Tex. 75202, Attn.: Donald K. Young, Esq.	1	[2] 4	Southern Natural Gas Co. (Lake Enfermer Field, Lafourche Parish, La.) (Southern Louisiana).	4,125	11-25-66	[3] 1-16-66	6-16-67	[7] 19.75	[4] [5] [6] 21.25	
RI67-193	Lyda Hunt-Caroline Trusts.	1	[2] 4	do	4,125	11-25-66	[3] 1-16-67	6-16-67	[7] 19.75	[4] [5] [6] 21.25	
RI67-194	Lyda Hunt-Herbert Trusts.	1	[2] 4	do	4,125	11-25-66	[3] 1-16-67	6-16-67	[7] 19.75	[4] [5] [6] 21.25	
RI67-195	Lyda Hunt-Lamar Trusts.	1	[2] 4	do	4,125	11-25-66	[3] 1-16-67	6-16-67	[7] 19.75	[4] [5] [6] 21.25	
RI67-196	Lyda Hunt-Margaret Trusts.	1	[2] 4	do	4,125	11-25-66	[3] 1-16-67	6-16-67	[7] 19.75	[4] [5] [6] 21.25	
RI67-197	Secure Trusts, 1401 Elm St., Dallas, Tex. 75202, Attn.: Donald K. Young, Esq.	1	[2] 9	do	12,000	11-25-66	[3] 1-16-67	6-16-67	[7] 19.75	[4] [5] [6] 21.25	
	do	5	5	Texas Gas Transmission Corp. (Oberlin Field, Allen Parish, La.) (Southern Louisiana).	450	11-21-66	[3] 1- 1-67	6-16-67	[7] [10] 20.25	[6] [7] [10] 21.75	RI62-226.
RI67-198	H. R. Smith, et al., Post Office Box 98, Alice, Tex. 78332.	9	2	Transcontinental Gas Pipe Line Corp. (Dilworth Dome Field, McMullen County, Tex.) (R.R. District No. 1).	7,940	11-25-66	[11] 12-26-66	5-26-67	[12] 14.1769	[9] [13] 15.18954	
RI67-199	Hassle Hunt Trust, 1401 Elm St., Dallas, Tex. 75202, Attn.: Donald K. Young, Esq.	20	7	Texas Gas Transmission Corp. (Maxie Field, Acadia Parish, La.) (Southern Louisiana).	15,000	11-21-66	[3] 1- 1-67	6- 1-67	[7] [10] 19.75	[6] [7] [10] 20.75	RI62-227.
RI67-200	Singer-Fleischaker Oil Co., Post Office Box 663, Oklahoma City, Okla. 73101.	1	[14] 12	Texas Gas Transmission Corp. (North Elton Field, Allen Parish, La.) (Southern Louisiana).	----------	11-23-66	[11] 12-24-66	Accepted	----------	----------	
		1	13		21,018	11-23-66	[3] 1- 1-67	6- 1-67	[7] 12.5464	[6] [7] 16.75	
RI67-201	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001, Attn.: H. H. Beeson, attorney.	[15] 375	1	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Second Bayou Field, Cameron Parish, La.) (Southern Louisiana).	72,998	11-21-66	[11] 12-22-66	5-22-67	[16] [17] 20.0	[16] [5] [10] 20.625	
RI67-202	Aztec Oil & Gas Co., 200 First National Bank Bldg., Dallas, Tex. 75202, Attn.: Quilman B. Davis, vice president.	7	[18] 20	Southern Union Gathering Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin Area).	2,288	11-17-66	[3] 12-18-66	5-18-67	13.0	[9] [6] 14.05933	

See footnotes at end of document.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI67-203	P. F. Beeler, Post Office Box 1016, Albuquerque, N. Mex. 87103.	2	3	Northern Natural Gas Co. (Mocane-Camp Creek Area, Beaver County, Okla.) (Panhandle Area).	461	11-21-66	[11] 12-22-66	5-22-67	[10] 17.0	[9 12 19] 18.0	
RI67-204	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	172	3	Panhandle Eastern Pipe Line Co. (Greenough Field, Beaver County, Okla.) (Panhandle Area).	316	11-22-66	[3] 1-1-67	6-1-67	[20] 15.0	[9 12] 17.0	
RI67-205	Amerada Petroleum Corp., Post Office Box 2040, Tulsa, Okla. 74102.	111	5	Transwestern Pipeline Co. (Northeast Catesby Field, Ellis County, Okla.) (Panhandle Area).	90	11-22-66	[11] 12-23-66	5-23-67	[10] 17.0	[9 12 19] 19.5	
RI67-206	Northern Pump Co. (Operator), et al., Post Office Box 7277, Camden Station, Minneapolis, Minn. 55412.	1	4	Northern Natural Gas Co. (Kansas-Hugoton Field, Seward County, Kans.).	687	11-22-66	[3] 1-1-67	6-1-67	[10] 12.0	[9 12 19] 13.0	RI62-267.
	do	2	4	Northern Natural Gas Co. (Kansas Hugoton Field, Finney County, Kans.).	284	11-22-66	[3] 1-1-67	6-1-67	[10] 12.0	[9 12 19] 13.0	RI62-267.
	do	14	5	Northern Natural Gas Co. (Kansas Hugoton Field, Stevens County, Kans.).	4,362	11-22-66	[3] 1-1-67	6-1-67	[10] 12.0	[9 12 19] 13.0	RI62-267.
RI67-207	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	15	3	Northern Natural Gas Co. (Elmwood Area, Beaver County, Okla.) (Panhandle Area).	1,400	11-23-66	[3] 1-1-67	6-1-67	[21] 16.0	[9 12 21] 17.0	RI62-173.

[3] Includes letter agreement dated Oct. 4, 1966, which provides for the renegotiated rate suspended herein.
[3] The stated effective date is the effective date requested by Respondent.
[4] Renegotiated rate increase.
[5] Pressure base is 15.025 p.s.i.a.
[6] Inclusive of tax reimbursement.
[7] Includes 1.75 cents per Mcf tax reimbursement.
[8] No present deliveries—estimate of future deliveries unavailable.
[9] Periodic rate increase.
[10] Subject to downward B.t.u. adjustment for gas having a heating content of less than 1,000 B.t.u.'s.
[11] The stated effective date is the 1st day after expiration of the statutory notice.
[12] Pressure base is 14.65 p.s.i.a.
[13] Respondent presently collecting 13.2809 cents per Mcf as a result of B.t.u. adjustment (14-cent base less B.t.u. adjustment of 0.936 plus 0.1769 tax reimbursement).
[14] Includes letter agreement dated Nov. 8, 1966, which amends basic contract by providing for the renegotiated rate suspended herein.
[15] Contract executed after Sept. 28, 1960, the date of issuance of general policy statement No. 61-1. Prior sales made pursuant to a contract executed prior to the policy statement.
[16] Respondent is filling for contractually provided for initial service rate.
[17] Initial service rate as conditioned in permanent certificate issued July 14, 1965, in Docket No. CI65-1227.
[18] Pertains only to gas previously sold in intrastate commerce but by agreement dated June 12, 1966 (Supplement No. 18), was changed to an interstate sale.
[19] Subject to a downward B.t.u. adjustment.
[20] Settlement rate in Texaco's companywide settlement by order issued Dec. 30, 1963, in Docket Nos. G-8969, et al. Moratorium expired Mar. 1, 1966.
[21] Subject to upward and downward B.t.u. adjustment.

H. R. Smith et al., request that their proposed rate increase be permitted to become effective on December 24, 1966; Mobil Oil Corp. requests an effective date of December 21, 1966, for its rate filing, and Amerada Petroleum Corp. requests a retroactive effective date of November 18, 1966, for its proposed rate increase. 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 earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

P. F. Beeler (Beeler) requests a retroactive effective date of June 13, 1966, for his proposed rate filing, or, in the alternative, should the Commission suspend his rate filing that such suspension period be shortened to 1 day. Good cause has not been shown for granting Beeler's request for an earlier effective date or for limiting to 1 day the suspension period with respect to such rate filing and Beeler's request is denied.

The contract related to the proposed increase filed by Mobil Oil Corp. (Mobil) was dated May 3, 1965, which is subsequent to the date of issuance of the Commission's statement of general policy No. 61-1. Where producers file increases under contracts dated after the policy statement and the proposed rates are above the area increased ceiling but equal to or below the area initial ceiling, the Commission generally suspends such increases for 1 day instead of 5 months. Although Mobil's proposed rate increase is below the area initial ceiling, the sales involved herein were previously made pursuant to contracts dated September 28 and November 16, 1959. Such sales appear to be of the Lo-Vaca type and are involved in the show cause order issued in the George Despot et al., Docket Nos. CI65-974 et al., proceeding. In view of these circumstances, we conclude that Mobil's filing should be suspended for 5 months from December 22, 1966, the date of expiration of the statutory notice, as ordered herein.

Concurrently with the filing of its rate increase, Singer-Fleischaker Oil Co. (Singer) submitted a letter agreement dated November 8, 1966, which amends the basic contract by providing for the renegotiated rate of 16.75 cents per Mcf. Such agreement has been designated as Supplement No. 12 to Singer's FPC Gas Rate Schedule No. 1. We believe that it would be in the public interest to accept for filing Singer's aforementioned contract agreement to become effective on December 24, 1966, the date of expiration of the statutory notice, but not the proposed rate contained therein which is suspended as hereinafter ordered.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause has been shown for accepting for filing Singer's proposed contract agreement dated November 8, 1966, designated as Supplement No. 12 to Singer's FPC Gas Rate Schedule No. 1, and for permitting such supplement to become effective on December 24, 1966, the date of expiration of the statutory notice.

(2) Except for the supplement set forth in paragraph (1) above, it is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Singer's contract agreement dated November 8, 1966, designated as Supplement No. 12 to Singer's FPC Gas Rate Schedule No. 1, is accepted for filing and permitted to become effective on December 24, 1966.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon

dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements (except the supplement set forth in par. (A) above).

(C) Pending hearings and decisions thereon, the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) 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 February 1, 1967.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66-13710; Filed, Dec. 22, 1966; 8:45 a.m.]

[Docket Nos. RI67-208 etc.]

TEXACO INC. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 15, 1966.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges 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 hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their 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, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their 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 supplements to the rate schedules filed by Respondents, as set forth herein, 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 Respondents shall each 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 copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings 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 February 1, 1967.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI67-208	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052, Attn.: Mr. R. C. Shields.	[2] 376	1	Texas Gas Transmission Corp. (Lake Pagie Field, Terrebonne Parish, La.) (Southern Louisiana) (On-Shore).	$9,624	11-25-66	[3] 1-1-67	[4] 1-2-67	[7] 20.625	[5] [6] 21.250	
RI67-209	General American Oil Co. of Texas (Operator), et al., Meadows Bldg., Dallas, Tex. 75206.	[2] 73	3	Texas Gas Transmission Corp. (Midland Field, Acadia Parish, La.) (Southern Louisiana).	5,600	11-28-66	[3] 1-1-67	[4] 1-2-67	[8] [9] 19.50	[5] [6] [9] 20.50	
RI67-210	Texaco Inc. (Operator), et al., Post Office Box 52332, Houston, Tex. 77052.	[2] 251	2	Cities Service Gas Co. (Hugoton Field, Kearny County, Kans.).	154	11-22-66	[3] 1-15-67	[4] 1-16-67	[11] [12] 12.0	[5] [10] [11] 13.0	

[2] Contract executed after Sept. 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1.
[3] The stated effective date is the effective date proposed by Respondent.
[4] The suspension period is limited to 1 day.
[5] Periodic rate increase.
[6] Pressure base is 15.025 p.s.i.a.
[7] Initial rate collected subject to refund provided by temporary certificate issued Sept. 2, 1966, in Docket No. CI67-166.
[8] Includes 1.75 cents per Mcf tax reimbursement.
[9] Subject to downward B.t.u. adjustment for gas having a heating content of less than 1,000 B.t.u.'s.
[10] Pressure base is 14.65 p.s.i.a.
[11] Subject to a downward B.t.u. adjustment.
[12] Settlement rate in Texaco's companywide settlement by order issued Dec. 30, 1963, in Docket Nos. G-8969, et al. Moratorium expired Mar. 1, 1966.

The contracts related to the rate filings proposed by Texaco Inc., Texaco Inc. (Operator), et al. (both referred to herein as Texaco), and General American Oil Company of Texas (Operator), et al. (General American) were executed subsequent to September 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed increased rates are above the applicable area rate ceiling for increased rates but below the initial service ceiling for the areas involved. We believe, in this situation, Texaco and General American's rate filings should be suspended for 1 day from the date shown in the "Effective Date" column of the attached Appendix "A".

[F.R. Doc. 66-13711; Filed, Dec. 22, 1966; 8:45 a.m.]

[Docket Nos. G-3105 etc.]

HUMBLE OIL & REFINING CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service, Petitions To Amend Certificates and Pending Application [1]

DECEMBER 14, 1966.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

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 January 6, 1967.

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 all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to 18 CFR 2.56, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-3105 D 12-5-66	Humble Oil & Refining Co. (Operator), et al., Post Office Box 2180, Houston, Tex. 77001.	Southern Natural Gas Co., Gwinville Field, Jefferson Davis County, Miss.	Assigned	
G-4444 C 11-30-66	N. H. Wheless, et al., 920 Commercial National Bank Bldg., Post Office Box 1746, Shreveport, La. 71102.	Plateau Natural Gas Co.,[1] the Ponoma Council Grove Field, Stevens County, Kans.	14.0	14.65
G-3895 D 12-5-66	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206 (partial abandonment).	Arkansas Louisiana Gas Co., Haynesville Field, Claiborne Parish, La.	Depleted	
G-6669 [2] E 9-23-66	Tenneco Oil Co. (successor to Delhi-Taylor Oil Corp.), Post Office Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., Justis Field, Lea County, N. Mex.	9.0	14.65
CI61-1072 C 12-5-66	Marathon Oil Co. (Operator), et al., 539 South Main St., Findlay, Ohio 45840.	El Paso Natural Gas Co., Kutz Canyon Area, Rio Arriba County, N. Mex.	[3] 13.0536 [4] 13.2486	15.025
CI64-70 [5] E 12-1-66	Okmar Oil Co.[6] (successor to Shell Oil Co.), c/o David L. Fist, attorney, 413 Midstates Bldg., Tulsa, Okla. 74103.	Arkansas Louisiana Gas Co., Waukomis Field, Garfield County, Okla.	15.0	14.65
CI64-847 E 12-2-66	Houston Royalty Co. (Operator), et al. (successor to Southwest Petroleum Management Corp. (Operator), et al.), 3057 Humble Bldg., Houston, Tex. 77002.	Texas Eastern Transmission Corp., East Melrose and West Weesatche Fields, Goliad County, Tex.	12.0	14.65
CI65-31 E 12-2-66	Rex Monahan (successor to Union Texas Petroleum, a division of Allied Chemical Corp., et al.), Box 1231, Sterling, Colo. 80751.	Kansas-Nebraska Natural Gas Co., Inc., Pinto Field, Washington County, Colo.	14.0	16.4
CI65-396 C 9-6-66	Rodman Oil Co.,[7] Post Office Box 3826, Odessa, Tex. 79760.	Northern Natural Gas Co., East Ozona Canyon Field, Crockett County, Tex.	16.0	14.65
CI65-997 C 12-2-66	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., acreage in Rio Arriba and San Juan Counties, N. Mex., and La Plata County, Colo.	13.0	15.025
CI66-861 C 12-5-66	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Northwest Bishop Field, Ellis County, Okla.	[8] [9] 17.85	14.65
CI66-1215 C 12-2-66	Joseph E. Seagram & Sons, Inc., d.b.a. Texas Pacific Oil Co., Post Office Box 747, Dallas, Tex. 75221.	Natural Gas Pipeline Co. of America, North Farnsworth Area, Ochiltree County, Tex.	17.0	14.65
CI66-1264 12-2-66 [10]	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	Panhandle Eastern Pipe Line Co., Tangier Field, Woodward County Okla.	17.0	14.65
CI67-35 C 12-6-66	Douglas E. Florence, Post Office Box 1078, Farmington, N. Mex. 87401.	El Paso Natural Gas Co., Ballard Pictured Cliffs Field, Rio Arriba County, N. Mex.	12.0	15.025
CI67-189 (CS66-54) F 8-16-66	Tenneco Oil Co. (successor to Cactus Drilling Co.).	El Paso Natural Gas Co., acreage in Lea County, N. Mex.	10.0	14.65
CI67-514 [2] (G-6669) F 10-17-66	Continental Oil Co. (successor to Delhi-Taylor Oil Corp.).	El Paso Natural Gas Co., Justis Field, Lea County, M. Nex.	9.0	14.65
CI67-537 (CS66-39) F 10-20-66	Union Oil Co of California (successor to Edward H. Leede, et al.), Union Oil Center, Los Angeles, Calif. 90017.	Northern Natural Gas Co., Coyanosa Field, Pecos County, Tex.	16.5	14.65
CI67-538 (CS-66-38) F 10-20-66	Union Oil Co. of California (successor to Victor H. Zoller, et al.).	do	16.5	14.65
CI67-672 B 11-21-66	Acco Oil & Gas Co., 1 Briar Dale Ct., Houston, Tex. 77027.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., West Indian Hills Field, Montgomery County, Tex.	[11]	
CI67-707 A 11-22-66	Kermit K., Charles K. and Mary A. Renner, c/o Mary A. Renner, partner, Littleton, W. Va. 26581.	Carnegie Natural Gas Co., Clay District, Wetzel County, W. Va.	20.0	15.325
CI67-722 A 11-22-66	Sanford P. Fagadau, Practorian Bldg., Dallas, Tex. 75201.	Lone Star Gas Co., Blue Grove Field, Clay County, Tex.	14.0	14.65
CI67-724 A 11-14-66	Dewey Harris, et al., 35½ Central Ave., Buckhannon, W. Va. 26201.	Cumberland & Allegheny Gas Co., Buckhannon District, Upshur County, W. Va.	23.0	15.325
CI67-734 A 12-1-66	Sun Oil Co., 1608 Walnut St., Philadelphia, Pa. 19103.	Northern Natural Gas Co., Chaney, Northeast Catesby, West Shattuck, and Northeast Gage Fields, Ellis County, Okla.	[8] 17.85	14.65
CI67-735 F 11-25-66	Joseph S. Gruss (successor to Petroleum Exploration, Inc., of Texas), 30 Broad St., New York, N.Y. 10001.	El Paso Natural Gas Co., Spraberry Trend Area Field, Upton County, Tex.	14.5	14.65
CI67-736 B 11-25-66	S. C. Canary & Associates, Operator, 1710 First National Bank Bldg., Tulsa, Okla. 74101.	Lone Star Gas Co., Katie Field, Garvin County, Okla.	[12]	
CI67-737 (CS66-113) F 11-28-66	Pan American Petroleum Corp. (successor to Westbrook-Thompson Holding Corp.), Post Office Box 591, Tulsa, Okla. 74102.	West Texas Gathering Co., Emperor Devonian-Ellenburger Field, Winkler County, Tex.	16.0	14.65
CI67-738 B 12-1-66	J. H. Wagner Drilling Co., Post Office Box 751, El Dorado, Kans. 71730.	Wunderlich Development Co., acreage in Cowley County, Kans.	Depleted	
CI67-739 B 12-1-66	do	do	Depleted	
CI67-740 B 12-1-66	do	do	Depleted	
CI67-741 B 12-1-66	do	do	Depleted	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI67-743 A 12-5-66	Apco Oil Corp., Liberty Bank Bldg., Oklahoma City, Okla. 73102.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	13.0	15.025
CI67-744 A 12-5-66	Davis Drlg., Inc., American State Bank Bldg., Great Bend, Kans. 67530.	Colorado Interstate Gas Co., Greenwood Field, Morton County, Kans.	[2] 17.0	14.65
CI67-745 (CI66-1310) F 12-5-66	Pan American Petroleum Corp. (successor to Tidewater Oil Co.).	Northern Natural Gas Co., East Keenan Field, Woodward County, Okla.	[14] 20.4	14.65
CI67-746 (G-3649) (G-3512) 11-29-66 [13]	Texas Oil & Gas Corp. (successor to Salt Dome Production Co.), 2520 Fidelity Union Tower, Dallas, Tex. 75201.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Lissie Field, Wharton County, Tex.	[16] 13.2782	14.65
CI67-747 (CI62-90) F 12-5-66	Pan American Petroleum Corp. (successor to Sam K. Viersen).	Michigan Wisconsin Pipe Line Co., Woodward Gas Area, Woodward County, Okla.	[17] 18.0	14.65
CI67-748 (G-5234) F 12-5-66	Charles O. Hardey (Operator), et al. (successor to Placid Oil Co.), c/o John M. Shuey, attorney, 604 Johnson Bldg., Shreveport, La. 71102.	United Gas Pipe Line Co., Sibley Field, Webster Parish, La.	[18] [19] 12.5252	15.025
CI67-749 A 12-1-66	The First Huntington National Bank, trustee, Huntington, W. Va. 25701.	United Fuel Gas Co., acreage in Martin County, Ky.	18.0	15.325
CI67-750 A 12-1-66	do	United Fuel Gas Co., acreage in Wayne County, W. Va.	18.0	15.325
CI67-751 A 12-5-66	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	Northern Natural Gas Co., Northeast Catesby Field, Ellis County, Okla.	[12] 17.0	14.65
CI67-752 A 12-5-66	Arkla Exploration Co., Post Office Box 1734, Shreveport, La. 71102.	Arkansas Louisiana Gas Co., acreage in Beckham County, Okla.	15.0	14.65
CI67-753 A 12-5-66	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102.	United Fuel Gas Co., Lake Long Field, Lafourche Parish, La.	[18] 17.5	15.025
CI67-754 (G-6702) (G-6703) F 12-1-66	Charles O. Hardey (Operator), et al. (successor to H. W. Perritt, et al.).	United Gas Pipe Line Co., Sibley Field, Webster Parish, La.	[18] [19] 12.5252	15.025
CI67-755 A 12-5-66	Charles D. Browder, Jr., Operator, Post Office Box 1660, Houston, Tex. 77001.	United Fuel Gas Co., Ellis Field, Acadia Parish, La.	17.5	15.025
CI67-756 A 11-25-66	W. E. Brewer, Logan General Hospital, Logan, W. Va. 25601.	United Fuel Gas Co., Kermit District, Mingo County, W. Va.	18.0	15.325
CI67-757 A 11-25-66	do	United Fuel Gas Co., Little Elk Creek, Martin County, Ky.	18.0	15.325
CI67-758 A 11-25-66	do	United Fuel Gas Co., acreage in Martin County, Ky.	18.0	15.325
CI67-759 A 11-25-66	do	United Fuel Gas Co., Kermit District, Mingo County, W. Va.	18.0	15.325
CI67-760 A 12-5-66	May Petroleum, Inc., et al., 1435 Republic National Bank Bldg., Dallas, Tex. 75201.	Arkansas Louisiana Gas Co., North Drummond Area, Garfield and Major Counties, Okla.	15.0	14.65

[1] Formerly Kansas-Colorado Utilities, Inc.
[2] Applicant is filing to continue service previously authorized and made pursuant to Delhi-Taylor's FPC GRS No. 43.
[3] For volumes subject to New Mexico Emergency School Tax prior to Apr. 1, 1963.
[4] For volumes not subject to New Mexico Emergency School Tax prior to Apr. 1, 1963.
[5] No permanent certificate issued. Temporary authorization granted by letter order Sept. 25, 1964.
[6] Applicant states its willingness to accept permanent certificate conditioned at 15 cents per Mcf.
[7] By letter dated Oct. 20, 1966, Applicant agreed to accept permanent authorization for the additional acreage containing conditions similar to those imposed by Opinion No. 468.
[8] Includes 0.85 cent upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[9] Subject to a treating charge of up to 2 cents should Buyer perform such service.
[10] Amendment to certificate filed to add interest of coowners.
[11] Production ceased December 1963.
[12] Well is no longer capable of producing gas in commercial quantities.
[13] Subject to upward and downward B.t.u. adjustment.
[14] Includes 3.4 cents upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[15] Application filed by Texas Oil & Gas Corp., successor to Salt Dome Production Co., to terminate certificate previously issued to Salt Dome in Docket No. G-3649. Applicant requests that its interest be covered by Operator's (Phillips Petroleum Co.) certificate in Docket No. G-3512.
[16] Dehydration charge of 0.21931 cent per Mcf deducted by Purchaser.
[17] Includes 1 cent upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[18] Includes 1.5 cents per Mcf tax reimbursement.
[19] Subject to deduction for compression should Buyer compress gas.

[F.R. Doc. 66-13712; Filed, Dec. 22, 1966; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1966 Rev., Supp. No. 13]

YORKSHIRE INSURANCE COMPANY OF NEW YORK

Termination of Authority To Qualify as Surety on Federal Bonds

Notice is hereby given that in accord with information recently received, the Certificate of Authority issued by the Secretary of the Treasury to the Yorkshire Insurance Co. of New York, New York, N.Y., a New York corporation, under the provisions of the Act of Congress approved July 30, 1947 (6 U.S.C. 6-13), to qualify as an acceptable surety on recognizances, stipulations, bonds, and undertakings permitted or required by the laws of the United States, terminated effective March 31, 1966, for the following reason.

Pursuant to Agreement of Merger effective midnight March 31, 1966, approved by the Superintendent of Insurance of the State of New York on April 6, 1966, the Yorkshire Insurance Co. of New York was merged into the Fidelity & Casualty Co. of New York, New York, N.Y., the surviving corporation.

The Fidelity & Casualty Co. of New York, a New York corporation, which holds a Certificate of Authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, acquired all the assets and assumed all the liabilities of the Yorkshire Insurance Co. of New York. A copy of the Agreement of Merger is on file in the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington, D.C. 20226.

No action need be taken by bond-approving officers, by reason of the merger, with respect to any bonds or other obligations in favor of the United States or in which the United States has an interest, direct or indirect, issued on or before March 31, 1966, by the Yorkshire Insurance Co. of New York pursuant to the Certificate of Authority issued the company by the Secretary of the Treasury.

A new underwriting limitation of $12,045,000 has been established for the Fidelity & Casualty Co. of New York, the surviving corporation, under its Certificate of Authority to act as an acceptable surety on Federal bonds.

Dated: December 19, 1966.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 66-13794; Filed, Dec. 22, 1966; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 401]

W. C. SULLIVAN & CO.

Revocation of License

Whereas, by order to show cause served November 30, 1966, the Federal Maritime Commission ordered that W. C. Sullivan & Co., 327 South La Salle Street, Chicago, Ill. 60604, on or before December 15, 1966, either (1) submit a valid bond effective on or before December 30, 1966, or (2) show cause in writing or request a hearing to show cause why its license should not be suspended or revoked pursuant to section 44(d), Shipping Act, 1916; and

Whereas, W. C. Sullivan & Co. has failed within the time allotted to comply with the Commission's order to show cause.

Now, therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in its order to show cause served November 30, 1966,

It is ordered, That the independent ocean freight forwarder license of W. C. Sullivan & Co. be and is hereby revoked, effective 12:01 a.m., December 30, 1966.

It is further ordered, That W. C. Sullivan & Co. return Independent Ocean Freight Forwarder License No. 401 to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on licensee.

JAMES E. MAZURE,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 66-13798; Filed, Dec. 22, 1966; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

URANIUM ENRICHMENT SERVICES

Criteria

1. *General.* (a) The U.S. Atomic Energy Commission (AEC) hereby gives notice of the establishment of criteria setting forth the terms and conditions under which it offers, subject to available capability, to provide uranium enrichment services in facilities owned by AEC, as authorized by the Atomic Energy Act of 1954, as amended (the Act). Specifically, these criteria are established pursuant to section 161v of the Act, which was added by Public Law 88-489, the "Private Ownership of Special Nuclear Materials Act." As used in this notice, the term "enrichment services" or "enriching services" means the separative work (Note 1.) necessary to enrich or further enrich uranium in the isotope 235. The enrichment services shall be provided pursuant to contracts to be entered into (1) with persons licensed under section 53, 63, 103, or 104 of the Act, and/or (2) in accordance with agreements for cooperation arranged pursuant to section 123 of the Act.

NOTE 1. The work devoted to separating a quantity of uranium (feed material) into two fractions, one a Product fraction containing a higher concentration of U-235 than the Feed and the other a Tails fraction containing a lower concentration of U-235.

(b) The contracts will provide for the furnishing of depleted, normal or enriched uranium by the customer and the delivery by the AEC of an appropriate quantity of enriched or more highly enriched uranium. The quantity of material to be furnished by the customer in relationship to the quantity of enriched uranium to be delivered by the AEC and the related amount of separative work to be performed by the AEC normally will be determined in accordance with the then-current standard table of enriching services published by the AEC (note 2). In the event, however, that the AEC does not have available capability to undertake to perform requested enriching services on short notice is accordance with such standard table, the AEC may agree to perform such services in accordance with such other table as is within its capability. The general features of standard contracts, including the basis for AEC's charges for enriching services, are set forth herein.

(c) Except as specifically provided, nothing in this notice shall be deemed to affect the sale or leasing of special nuclear material by the AEC or the entering into of "barter" arrangements whereby special nuclear material is distributed pursuant to section 54 of the Act and source material is accepted in part payment therefor. Neither the execution of an agreement for the furnishing of uranium enrichment services nor the termination or expiration of such agreement will in itself alter or affect any rights and obligations of any AEC licensee under its license or construction permit other than those regarding any allocation of special nuclear material in connection therewith (note 3).

NOTE 2. The initial table, as presently contemplated, will not provide to the customer flexibility to select a quantity of feed and an amount of separative work other than those specified in the AEC table. However, the AEC is giving further study to the question of providing, at some date in the future, a form of contract under which flexibility would be available.

NOTE 3. In view of the authority granted to the AEC under the Act to execute long-term fuel supply agreements, the AEC is reviewing its existing regulations and procedures with respect to the need for allocations of special nuclear material in licenses.

(d) The criteria contained in this notice are subject to change by the AEC from time to time; however, any such changes shall be submitted to the Joint Committee on Atomic Energy for its review in accordance with the Act.

2. *Effective date.* This notice is effective upon publication in the FEDERAL REGISTER.

3. *Period of contract.* Contracts with domestic licensees will be for specified periods of time up to 30 years. Contracts entered into in accordance with an international agreement for cooperation must be for a term within the period of such agreement. In either case, contracts may be entered into at any time after the effective date of this notice; however, no such contract shall provide for delivery of special nuclear material by AEC or delivery of uranium feed material to AEC before January 1, 1969.

4. *Enrichment of uranium of foreign origin.* There is no restriction on the provision of enrichment services to persons furnishing as feed material uranium of foreign origin where the enriched product is not intended to be used in a utilization facility (as defined in the Act) within or under the jurisdiction of the United States. Where the enriched material is intended to be used in a domestic utilization facility, however, the standard contracts will prohibit the furnishing of feed material of foreign origin. This prohibition is established, pursuant to section 161v of the Act, in order to assure the maintenance of a viable domestic uranium industry. From time to time, the AEC will review the condition of the domestic mining and milling industry to determine the need for continuing this restriction, modification or removal of which shall constitute a change in these criteria.

5. *General features of standard domestic contracts.* The following types of contracts have been developed in the light of the uncertainties necessarily attendant to contracts which may be for periods as great as 30 years. Accordingly such contracts will provide that, at the request of either the AEC or the customer, the parties will negotiate and, to the extent mutually agreed, amend them, without additional consideration, in a manner consistent with the criteria then established by the Commission in accordance with the requirements of section 161v of the Act to eliminate or reduce restrictive provisions which the parties determine are inequitable, discriminatory or no longer required to protect their interests. The AEC will use two standard types of uranium enrichment contracts to be entered into with domestic licensees. These are entitled (a) "Agreement for Furnishing Uranium Enrichment Services (Domestic Customers—Firm Quantities)," and (b) "Agreement for Furnishing Uranium Enrichment Services (Domestic Customer's Requirements)." The AEC may also offer a uranium enrichment contract combining features of the foregoing types of contract. The type of contract first mentioned, at the customer's option, will either (i) define the specific quantities and assays of enriched uranium to be delivered to the customer, the schedule for such deliveries, and the quantity and assay (or a range of quantities and assays within permitted amounts) of feed material other than natural uranium to be delivered by the customer, with the remainder of the required feed material to be delivered as natural uranium, or (ii) define the amount of enriching services to be performed by the AEC in terms of units of separative work as related to the AEC's standard table of enriching services in effect at the time the parties agree to such amounts and provide for the adjustment of such amounts in the event of a revision of the AEC's standard table of enriching services through the application of such revised standard table to the relevant portion of a reference schedule of feed material deliveries by the customer and enriched uranium deliveries by the AEC incorporated into the contract for this purpose. The second type would provide for the furnishing of part or all of the customer's requirements for enriching services for a designated facility or facilities during the term of the contract.

In addition to the items discussed above, the more significant provisions of the standard domestic contracts are summarized below:

(a) *Delivery schedules.* Deliveries of specific quantities and U-235 assays of feed material to AEC and enriched uranium to the customer shall be in accordance with the agreement between the parties and (except as provided in 1(b) above) in accordance with the published AEC standard table of enriching services in effect at the time of the delivery of enriched uranium by the AEC. The schedule for delivering enriched uranium to the customer shall reflect an interval after receipt of feed material equivalent to the estimated average time which would be required to receive, handle, and process equivalent feed material to the desired enriched uranium. The AEC will not necessarily use the specific feed material furnished by the customer in producing the enriched uranium delivered to the customer. Unless otherwise agreed, deliveries of feed material to AEC shall precede requested deliveries of the enriched uranium by at least ninety (90) days. The AEC may agree to perform enriching services in cases where the leadtime requirements for furnishing feed material are not satisfied; in such cases, an appropriate surcharge may also be imposed to provide for recovery of

additional AEC costs and interest charges.

(b) *Chemical form and specifications of material.* Both feed material furnished to the AEC and enriched uranium delivered to the customer are required to be in the form of UF_6 and conform to the AEC's established specifications as published in the FEDERAL REGISTER and in effect on the date of delivery.

(c) *Charge for enriching services.* (1) The charge for enriching services, in accordance with the Act, will be established on a nondiscriminatory basis and provide reasonable compensation to the Government. Applicable charges for enriching services and related services will be those in effect at the time of delivery of enriched uranium to the customer as (i) published in the FEDERAL REGISTER, or (ii) in the absence of such publication, determined in accordance with the Commission's pricing policy. The charge per unit of separative work for enriching services will be the same as that employed in the Commission's published schedule of charges for sale or lease of enriched uranium. The AEC may impose an appropriate surcharge representing additional costs if any to the AEC for providing enriching services on short notice.

(2) The Act requires that such charges provide reasonable compensation to the Government. AEC's charge for enriching services will be established on a basis that will assure the recovery of appropriate Government costs projected over a reasonable period of time. The cost of separative work includes electric power and all other costs, direct and indirect, of operating the gaseous diffusion plants; appropriate depreciation of said plants; and a factor to cover applicable costs of process development, AEC administration and other Government support functions, and imputed interest on investment in plant and working capital. During the early period of growth of nuclear power, there will be only a small civilian demand on the large AEC diffusion plants. These plants were originally constructed for national security purposes, but will be utilized in meeting future civilian requirements. In this interim period of low plant utilization, the Commission has determined that the costs to be charged to the separative work produced for civilian customers will exclude those portions of the costs attributable to depreciation and interest on plant investment which are properly allocable to plant in standby and to excess capacity.

(3) Projections of supply and demand over a reasonable time period will be used in establishing a plan for diffusion plant operations. This plan will be the basis for establishing an average charge for separative work over the period involved, which charge will be kept as stable as possible as operating plans are periodically updated. Under such operating plans, AEC will at times be preproducing enriched uranium. Interest on the separative work costs of any such preproduced inventories will be factored into the average separative work charges.

(d) *Ceiling on charge for enrichment services.* The contract shall specify for the term of the agreement a guaranteed ceiling charge, subject to upward escalation for the cost of electric power and labor. The ceiling charge as of July 1, 1965, the base date for application of escalation, is $30 per Kg unit of separative work for separation of U-235 from U-238. (In its standard table of enriching services, as well as its schedule of charges for sale or lease of enriched uranium, AEC will take into account any significant effect of the presence of other isotopes of uranium on the number of separative work units required to perform a given U-235, U-238 separation.)

(e) *Customer's option to acquire tails material.* The customer shall be granted an option to acquire tails material (depleted uranium) resulting from the performance of enriching services. The option as to quantity (Kg U) of tails material desired by the customer, within the maximum quantity subject to the option, must be exercised at the time of delivery of the related quantity of feed material. The U-235 assay of the tails material delivered to the customer will be within the sole discretion of the AEC. The maximum quantity of depleted uranium subject to the option will be equal to the difference between the total uranium supplied by the customer as feed material and the total enriched uranium furnished to the customer, less processing losses as established from time to time by the AEC. No charge will be made for tails material delivered to the customer under the agreement other than AEC's withdrawal, handling and packaging charges. Delivery of tails material will normally be at the same time as delivery of enriched uranium.

(f) *Responsibility for material meeting specifications.* The customer warrants that all feed material meets specifications and, with stated exceptions, agrees to hold the AEC and its representatives harmless from all damages, liabilities, or costs arising out of a breach of the warranty where such damages, liabilities, or costs are incurred prior to final acceptance of the feed material by AEC. However, the customer is not deprived of any rights under indemnification agreements entered into pursuant to section 170 of the Act (Price-Anderson indemnification). The AEC's obligation to furnish specification material to the customer terminates upon final acceptance of such material by the customer.

(g) *Termination by AEC.* (1) The contract may be terminated by AEC without cost to AEC upon reasonable notice at such time as commercial enriching services are provided by another domestic source; provided, however, that AEC will upon request by the customer rescind any notice of termination and will continue to furnish the services specified in the contract if the services of the domestic source are not available to the customer: (i) To the extent provided for in the AEC contract during the remainder of its term; (ii) on terms and conditions which are considered by the AEC to be reasonable and nondiscriminatory as between domestic and foreign customers; and (iii) at charges considered by AEC to be reasonable, nondiscriminatory, and no higher than the ceiling charge under the AEC contract, as escalated for the cost of electric power and labor.

(2) The AEC may terminate the contract without cost to the AEC in the event the customer loses its right to possess enriched uranium, defaults on its contractual obligations, or becomes involved in bankruptcy proceedings. In such instances the customer will be required to pay a termination charge determined as if the customer had terminated the contract on the notice, if any, given the customer by the AEC.

(h) *Termination by customer.* The customer may terminate the contract in whole or in part. In such instances the customer will be required to pay a termination charge equal to a specified fraction of the charges for those enriching services which would have been furnished but for such termination. Such fraction of such charge shall be a maximum of 0.25 of such charge for those amounts for which minimum advance notice of termination is given and shall be a lesser figure for amounts terminated for which a longer notice period is given. No termination charges shall apply to amounts of separative work which would have been furnished at times 3½ years or more subsequent to the date of receipt of the notice of termination of such amounts. The amounts of separative work and enriching services charges related thereto (prior to the application of the specified fraction) shall be determined in accordance with the published AEC standard table of enriching services and established charges in effect on the date of the receipt of the notice of termination. The AEC will determine the extent to which, if any, such termination charges exceed the probable costs to the Commission which may arise from such termination and such charges shall be correspondingly reduced. Such determination shall be final. Upon request of the customer prior to its delivery of a notice of termination, the AEC will advise the customer of the approximate amount of termination charges which would be payable.

(i) *Delivery—title.* The f.o.b. delivery point for both feed material furnished to AEC and enriched uranium delivered to the customer is the designated AEC facility. The AEC's enriching facilities are situated at Oak Ridge, Tenn.; Paducah, Ky.; and Portsmouth, Ohio. Title to all material passes upon delivery.

(j) *Changes in charges and specifications.* Any change made after July 1, 1968, in the specification for UF_6, the AEC's standard table of enriching services, or any increase in the charge per unit of separative work for enriching services shall require at least 180 days' notice to the customer by publication in the FEDERAL REGISTER.

(k) *Customer's requirements contracts.* In addition, requirements contracts will provide:

(1) *Quantities and enrichments of material.* The customer will be committed to obtain, and the Commission to provide, part or all of the customer's actual requirements for enriching services for a designated facility or facilities during the term of the agreement. Timely notice of the customer's requirements must be furnished to AEC. Except as provided in 1(b) above the quantities and enrichments of feed material furnished by the customer will be those required, in accordance with the published AEC standard table of enriching services, to obtain the material of higher enrichment desired by the customer. A maximum net amount of enriching services to be provided will be established.

(2) *Utilization of material.* The contract will provide the basis for determining the portion of the customer's requirements for enriching services to be furnished by the AEC by describing the extent to which:

a. enriched uranium furnished by the AEC under the contract will, after being used in or in support of the operation of the designated facilities, be recycled or delivered to the AEC as feed material under the contract;

b. plutonium or U-233 produced in and discharged from the designated facilities will be recycled for use in or in support of the operation of the designated facilities;

c. special nuclear material obtained from sources other than through the contract or the operation of the designated facilities, will be used in or in support of the operation of the designated facilities, including delivery of such material to the AEC as feed material under the contract.

Where the contract does not initially provide for the recycle for use, as in b. above of the plutonium or U-233 produced, the customer, at any time prior to June 30, 1973, or such later date as the AEC may establish for this purpose, may elect, without incurring termination charges, to so use such plutonium or U-233 thereafter. In such cases, the contract will also provide for use of plutonium or U-233, as the case may be, from another source in lieu of such produced material. The customer may further change such utilization of material by agreement or by terminating the contract in whole or in part.

6. *General features of contracts entered into in accordance with an agreement for cooperation.* It is expected that the general features of uranium enrichment services contracts entered into pursuant to agreements for cooperation with foreign nations or groups of nations will be generally consistent with those discussed above.

7. *Correspondence.* Any correspondence involving this notice or request for copies of standard contract forms should be addressed to:

Manager, Oak Ridge Operations Office, U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, Tenn. 37830.

Dated at Washington, D.C., this 19th day of December 1966.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 66-13756; Filed, Dec. 22, 1966; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17613]

ALOHA/HAWAIIAN CERTIFICATE AMENDMENT PROCEEDING

Notice of Hearing

Notice is hereby given, pursuant to provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on January 19, 1967, at 9 a.m. (local time) in the Transportation Conference Room, Department of Transportation Building, 869 Punchbowl Street, Honolulu, Hawaii, before the undersigned Examiner.

Dated at Washington, D.C., December 19, 1966.

[SEAL] Thomas L. Wrenn,
Associate Chief Examiner.

[F.R. Doc. 66-13795; Filed, Dec. 22, 1966; 8:48 a.m.]

[Docket No. 17615]

HILO-MAINLAND TEMPORARY SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on January 25, 1967, at 10 a.m. (local time) in the Hilo Electric Auditorium, 1200 Kilauea Avenue, Hilo, Hawaii, before the undersigned Examiner.

Dated at Washington, D.C., December 19, 1966.

[SEAL] Thomas L. Wrenn,
Associate Chief Examiner.

[F.R. Doc. 66-13796; Filed, Dec. 22, 1966; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

COPPER AND RELATED PRODUCTS

Export Licensing Quotas

Notice is hereby given that the current export licensing quotas for copper and related products will be continued without change for the first half of 1967.

The quotas are as follows:

Ores, concentrates, matte and blister copper—closed quota (embargo).
Refined copper, produced from domestic-origin material—25,000 copper content short tons.
Copper scrap—16,500 copper content short tons.
Copper base alloy ingots—1,000 copper content short tons.
Semifabricated copper products and master alloys of copper—9,000 copper content short tons.
Other copper products—open end quota (no quantitative restrictions).

Historical country quotas for copper scrap have been found to be no longer necessary and are eliminated.

Historical exporters must file license applications with the Office of Export Control not later than May 29, 1967. Nonhistorical exporters must file by January 31, 1967. Applications for licenses to export semifabricated copper products and master alloys of copper are not subject to time schedules and may be submitted at any time.

Rauer H. Meyer,
Director, Office of Export Control.

[F.R. Doc. 66-13782; Filed, Dec. 22, 1966; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

STAUFFER CHEMICAL CO.

Notice of Establishment of Temporary Tolerance

Notice is given that at the request of the Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804, a temporary tolerance of 0.1 part per million is established for residues of the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog in the meat and fat of meat of beef cattle. The Commissioner of Food and Drugs has determined that this temporary tolerance will protect the public health.

A condition under which this temporary tolerance is established is that the insecticide will be used in accord with the temporary permit issued by the U.S. Department of Agriculture.

This temporary tolerance expires December 15, 1967.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a (j)) and delegated by him to the Commissioner (21 CFR 2.120; 31 F.R. 3008).

Dated: December 15, 1966.

James L. Goddard,
Commissioner of Food and Drugs.

[F.R. Doc. 66-13790; Filed, Dec. 22, 1966; 8:48 a.m.]

GEIGY CHEMICAL CORP.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 7B2130) has been filed by Geigy Industrial Chemicals, Division of Geigy

Chemical Corp., Post Office Box 430, Yonkers, N.Y. 10702, proposing an amendment to § 121.2527 *Antistatic and/or antifogging agents in food-packaging materials* to provide for additional safe use of *N*-acyl sarcosines as antistatic and/or antifogging agents not to exceed 0.15 percent by weight of ethylene-vinyl acetate copolymer film, complying with § 121.2570 and having an average thickness of up to 0.003 inch, used for packaging meats, fresh vegetables, and fresh fruits.

Dated: December 15, 1966.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 66-13791; Filed, Dec. 22, 1966; 8:48 a.m.]

UNITED STATES RUBBER CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 7B2100) has been filed by United States Rubber Co., Chemical Division, Naugatuck, Conn. 06771, proposing an amendment to § 121.2522 *Polyurethane resins* to provide for the safe use of a polyurethane resin produced by the reaction of toluene diisocyanate with adipic acid polyesters and cured with 4,4'-methylenebis(2-chloroaniline), as a coating on articles intended for repeated use in contact with nonalcoholic foods.

Dated: December 15, 1966.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 66-13792; Filed, Dec. 22, 1966; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 307]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 20, 1966.

The following are notices of filing of application for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1824 (Sub-No. 39 TA), filed December 14, 1966. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, Md. 21655. Applicant's representative: Frank V. Klein (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Frozen foodstuffs*, from points in Maryland, to points in New York, Ohio, Virginia, West Virginia, and points in Pennsylvania on the west of U.S. Highway 220 and Huntington, State College, East Stroudsburg, and Stroudsburg, Pa., for 180 days. Supporting shipper: Campbell Soup Co., 375 Memorial Avenue, Camden, N.J., Albin J. Budash. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 206 Post Office Building, Salisbury, Md. 21801.

No. MC 58813 (Sub-No. 86 TA), filed December 14, 1966. Applicant: SELMAN'S EXPRESS, INC., 460 West 35th Street, New York, N.Y. 10001. Applicant's representative: Solomon Granett, 1350 Avenue of the Americas, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: BOR-95 on file at ICC Office, 346 Broadway, New York, N.Y. Supporting shippers: Wendy-Carr, Inc., 900 74th Street, North Bergen, N.J.; Sandie Lynn, Inc., 112 West 34th Street, New York, N.Y. Send protest to: Paul W. Assenza, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 75406 (Sub-No. 28 TA), filed December 14, 1966. Applicant: SUPERIOR FORWARDING COMPANY, INC., 2600 South Fourth Street, St. Louis, Mo. 63118. Applicant's representative: Rebman, LaTourette & Gunn, Suite 1230, Boatmen's Bank Building, St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *Classes A and B explosives* and *general commodities* (except those of unusual value, and except livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Newport, Ark., and Batesville, Ark., over Arkansas Highway 14 to junction U.S. Highway 167, thence over U.S. Highway 167 to Batesville, Ark., for 180 days. NOTE: Applicant states it would perform service between St. Louis, Mo., and Batesville, Ark., by tacking the authority between St. Louis, Mo., and Newport, Ark. Supporting shippers: The application is supported by statements from 16 shippers which may be examined here at the Interstate Commerce Commission in Washington, D.C. Send protests to: J. P. Werthmann, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 3248-B, 1520 Market Street, St. Louis, Mo. 63102.

No. MC 94265 (Sub-No. 199 TA), filed December 14, 1966. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Norfolk, Va. 23502. Applicant's representative: Harry Buckwalter (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Frozen foods* from points in Maryland, to points in Ohio, West Virginia, and points on and west of Highway 220 in Pennsylvania, for 120 days. Supporting shipper: Campbell Soup Co., 375 Memorial Avenue, Camden, N.J. Send protests to: Robery W. Waldron, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 103654 (Sub-No. 123 TA), filed December 16, 1966. Applicant: SCHIRMER TRANSPORTATION COMPANY, INC., 1145 Homer Street, St. Paul, Minn. 55116. Applicant's representative: C. E. Swanson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Flour*, in bulk, from New Richmond, Wis., to Minneapolis and St. Paul, Minn., for 180 days. Supporting shipper: Doughboy Industries, Inc., New Richmond, Wis. 54017. Send protests to: A. E. Rathert, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 448 Federal Office Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 108207 (Sub-No. 212 TA), filed December 14, 1966. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Impregnated broadgoods*, from Culver City, Calif., to Chanute, Kans., Irving, Tex., Minden, Nebr., Tulsa, Okla., Hastings, Mich., and Columbus, Ohio, for 180 days. Supporting shipper: The Ferro Corp., Cordo Division, 3512-20 Helms Avenue, Culver City, Calif. 90231. Send protests to: E. K. Willis, Jr., District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 108207 (Sub-No. 213 TA), filed December 15, 1966. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Blood plasma*, human, frozen, from Parchman, Miss., to Berkeley, Calif., for 180 days. Supporting shipper: Cutter Laboratories, Fourth and Parker Streets,

Berkeley, Calif. 94710. Send protests to: E. K. Willis, Jr., District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 110420 (Sub-No. 537 TA), filed December 15, 1966. Applicant: QUALITY CARRIERS, INC., 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Coating compounds*, in bulk, in tank vehicles, from Cincinnati, Ohio, to Grand Rapids, Mich., and Denver, Colo., for 180 days. Supporting shipper: Keebler Co., 677 Larch Avenue, Elmhurst, Ill. 60126 (Morris Cooper, traffic manager). Send protests to: W. F. Sibbald, Jr., District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 113514 (Sub-No. 99 TA), filed December 15, 1966. Applicant: SMITH TRANSIT, INC., 3300 Republic National Bank Building, Dallas, Tex. 75201. Applicant's representative: W. D. White, Jr., 2505 Republic National Bank Building, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, as follows: *Salt cake*, in bulk, from the plantsite of American Cyanamid Co. in Fort Worth, Tex., to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, and Oklahoma, for 180 days. Supporting shipper: American Cyanamid Co., Wayne, N.J. 07470. Send protests to: E. K. Willis, Jr., District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 113678 (Sub-No. 271 TA), filed December 14, 1966. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Denver, Colo., to points in Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Supporting shippers: Litvak Packing Co., East 59th Avenue and York, Denver, Colo.; Pepper Packing Co., 901 East 46th Avenue, Denver 16, Colo.; Capitol Packing Co., 5000 Clarkson Street, Denver 16, Colo.; Cardinal Meat Co., 801 East 50th Avenue, Denver 16, Colo.; Gold Star Meat Co., 10th and Curtis, Denver, Colo. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, 2022 Federal Office Building, Denver, Colo. 80202.

No. MC 117815 (Sub-No. 116 TA), filed December 16, 1966. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50316. Applicant's representative: John P. Burroughs (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Such merchandise* as is dealt in by wholesale grocery and food business houses, and in connection therewith, *equipment materials and supplies* used in the conduct of such business, from Chicago, Ill., to Burlington and Fairfield, Iowa. Supporting shippers: Neifeh's Supermarket, 208 Harrison, Burlington, Iowa; Mayn's Supermarket, 120 West Broadway, Fairfield, Iowa. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 119530 (Sub-No. 8 TA), filed December 14, 1966. Applicant: CLARENCE M. MAY and SCOTT PEARSON, a partnership, doing business as MAY TRUCKING COMPANY, 1619 Second Avenue South, Payette, Idaho 83661. Applicant's representative: J. Charles Blanton, 525 First Security Building, Boise, Idaho 83702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Animal and poultry feed*, manufactured or processed, in bulk and in containers, from Ontario, Oreg., to points in Nevada, for 150 days. Supporting shipper: Panch-Way Feed Mills, Post Office Box 217, Ontario, Oreg. 97914. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, 203 Eastman Building, Boise, Idaho 83702.

No. MC 124814 (Sub-No. 6 TA), filed December 16, 1966. Applicant: LLOYD McVEY, doing business as McVEY TRUCKING, Rural Route No. 1, Oakwood, Ill. Applicant's representative: Clyde Meachum, 704–710 Baum Building, Danville, Ill. 61832. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Feed*, in bulk and in bags, from Danville, Ill. to points in Michigan, for 150 days. Supporting shipper: Swisher Feed Division, William Davies Co. Inc., 628 East Fairchild Street, Chicago, Ill. Send protests to: Charles J. Kudelka, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1086, U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 128725 (Sub-No. 1 TA), filed December 14, 1966. Applicant: HARRY HOOP, JR., Rural Route No. 2, Box 263, Clayton, Ind. 46118. Applicant's representative: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Meats, meat products and meat byproducts; dairy products and articles distributed by meat packinghouses* (except commodities in bulk), between Indianapolis, Ind., and points in Indiana, restricted to movements having a prior or subsequent movement by rail or truck, under a continuing contract or contracts with Hygrade Food Products, Corp., Detroit, Mich., for 180 days. Supporting shipper: Hygrade Food Products Corp., 11801 Mack Avenue, Detroit, Mich. 48214. Send protests to: District Supervisor R. M. Hagerty, Bureau of Operations and Compliance, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 128730 (Sub-No. 1 TA), filed December 15, 1966. Applicant: BERT ESTES, Route 4, Smiths Grove, Ky. 42171. Applicant's representative: Robert H. Cowan, 500 Court Square Building, 300 James Robertson Parkway, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Packaged daily products* in wire containers, in refrigerated vehicles, from Louisville, Ky., to Nashville, Tenn., for 180 days. Supporting shipper: Mr. John B. Pettigrew, Fleet Manager, Dean Foods Co., 3600 River Road, Franklin Park, Ill. 60131. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 128752 TA, filed December 14, 1966. Applicant: H. C. HOFFMAN, doing business as HOWARD'S LUMBER AND BUILDING SUPPLY, 2625 Sunset Road, Bishop, Calif. 93514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Scoria stone* (1) from Crestview, Calif., and points within a 25-mile radius, to Lone Pine, Calif., for reshipment to points outside of California; (2) from the same origin point to points in Arizona, Nevada, and Albuquerque, New Mexico; (3) from Lone Pine, Calif., and points within a 25-mile radius to points in Arizona, Nevada, and Albuquerque, New Mexico, for 180 days. Supporting shipper: Eastern Sierra Pumice Corp., Post Office Box 954, Bishop, Calif. 93514. Send protests to: Danuel Augustine, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 11 West Telegraph Street, Carson City, Nev. 89701.

MOTOR CARRIER OF PASSENGERS

No. MC 125494 (Sub-No. 2 TA), filed December 15, 1966. Applicant: D & M TAXI CO., INC., Post Office Box 38, Fort Dix, N.J. 08460. Applicant's representative: John D. Hawke, Jr., 1229 19th Street NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Passengers and their baggage* in the same vehicle, from Fort Dix and McGuire AFB, N.J., to New York, N.Y., Philadelphia, Pa., and the Philadelphia International Airport, in special and charter operations limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof, and not including children under 10 who do not occupy a seat.

NOTE: This application seeks permission for precisely the same service it is now authorized to perform with the exception that it would increase the number of

passengers from 6 to 11. Send protests to: Raymond T. Jones, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 410 Post Office Building, Trenton, N.J. 08608.

MOTOR CARRIER OF PASSENGERS

No. MC 128753 TA, filed December 15, 1966. Applicant: ASSOCIATED BUS COMPANY OF OAKLAND, 921 Bergen Avenue, Jersey City, N.J. 07306. Applicant's representative: Mr. Charles J. Williams, 1060 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Passengers*, for the account of the Duralite Co., Inc., between the Bronx, N.Y., on the one hand, and, on the other, the plantsite of the Duralite Co., Inc., located in Passaic, N.J., for 150 days. Supporting shipper: Duralite Co., Inc., 2 Barbour Avenue, Passaic, N.J. Send protests to: District Supervisor Walter J. Crossman, Interstate Commerce Commission, Bureau of Operations and Compliance, 1060 Broad Street, Room 363, Newark, N.J. 07102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-13801; Filed, Dec. 22, 1966; 8:49 a.m.]

[Notice 1454]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 20, 1966.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69129. By order of December 15, 1966, the Transfer Board approved the transfer to Edward G. Hamburg, Philadelphia, Pa., of the operating rights of Ethel Hamburg, Philadelphia, Pa., in permit No. MC-5661, issued June 30, 1959, authorizing the transportation, as a contract carrier, of glue, fertilizer, and materials and supplies used in the manufacture of glue and fertilizer, over irregular routes, between Edgely, Bristol, and Philadelphia, Pa., Camden, N.J., and Wilmington, Del. Leonard B. Hoffner, 1 East Penn Square, Philadelphia, Pa. 19107, representative for applicants.

No. MC-FC-69211. By order of December 15, 1966, the Transfer Board approved the transfer to LTL Delivery, a corporation, Los Angeles, Calif., of the operating rights in certificate No. MC-31689 and the certificate of registration in No. MC-31689 (Sub-No. 2), both issued June 23, 1966, to Trygve Lodrup, Garry M. White, and Harold Hall, a partnership, doing business as L.T.L. Delivery Service, Los Angeles, Calif., the certificate authorizing transportation, in interstate or foreign commerce, over irregular routes, of general commodities, with exceptions, between Los Angeles, Calif., on the one hand, and, on the other, Los Angeles Harbor and Long Beach, Calif., and chemicals, chemical byproducts, antifreeze liquids, and alcohol between Anaheim, Calif., on the one hand, and, on the other, Long Beach and Los Angeles Harbor, Calif., and the certificate of registration evidencing a right to engage in transportation in interstate or foreign commerce solely in the State of California, corresponding to certificate of convenience and necessity granted in decision No. 61235, dated December 20, 1960, as amended in decision No. 63060, dated January 9, 1962, by the Public Utilities Commission of the State of California. Roberta Johnson, 333 South Beverly Drive, Beverly Hills, Calif. 90212, attorney for applicants.

No. MC-FC-69212. By order of December 15, 1966, the Transfer Board approved the transfer to Samuel Tischler, doing business at Tischler Motor Freight, Rosenhayn, N.J., of certificate No. MC-4617, issued October 11, 1965, to Seashore Transportation Co., Inc., and authorizing the transportation of general commodities, over a regular route, between Malaga, N.J., and Philadelphia, Pa., serving all intermediate points, except Camden, N.J., and the off-route point of Pitman, N.J. V. Baker Smith, 2107 Fidelity-Philadelphia Trust Building, Philadelphia, Pa. 19107, attorney for applicants.

No. MC-FC-69233. By order of December 13, 1966, the Transfer Board approved the transfer to Kubach Trucking Co., a corporation, Melvindale, Mich., the certificate in No. MC-61029 and permit in No. MC-115582, both issued October 18, 1965, to Robert B. Kubach, Farmington, Mich., authorizing the transportation of: New furniture, from Detroit, Mich., to points within 8 miles of Detroit, in common carriage, and parts, assemblies, and materials, used in the manufacture of motor vehicles, between Detroit, Mich., and points, as specified, in Michigan, in contract carriage, dual operations were authorized. Ramon S. Regan, 2255 Penobscot Building, Detroit, Mich. 48826, attorney for applicants.

No. MC-FC-69234. By order of December 15, 1966, the Transfer Board approved the transfer to W. Neil Norris, doing business as Norris Co., Holly Hill, S.C., of certificate No. MC-103191 (Sub-No. 16), issued July 19, 1965, to The Geo. A. Rheman Co., Inc., Charleston, S.C., authorizing the transportation of: Lumber, except plywood and veneer, from Four Holes, S.C., to Charleston, S.C. Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201, attorney for applicants.

No. MC-FC-69240. By order of December 13, 1966, the Transfer Board approved the transfer to F. W. Rooney Motor Transportation, Inc., Reading, Mass., of the operating rights of Frederic W. Rooney, doing business as F. W. Rooney Motor Transportation, Reading, Mass., in certificate of registration No. MC-57304 (Sub-No. 1), issued October 22, 1963, authorizing the transportation, as a common carrier, over irregular routes, of general commodities anywhere in the Commonwealth of Massachusetts. John F. Curley, 33 Broad Street, Boston, Mass. 02109, attorney for applicants.

No. MC-FC-69249. By order of December 15, 1966, the Transfer Board approved the transfer to Albert E. Bertsch, doing business as Bertsch Trucking, Miller, S. Dak., of the certificate in No. MC-106636, issued December 17, 1946, to Howard L. Beck, Ree Heights, S. Dak., and authorizing the transportation of livestock and emigrant movables, over irregular routes, between Ree Heights, S. Dak., and points and places within 30 miles thereof, on the one hand, and, on the other, points and places in Iowa, Minnesota, Nebraska, Wyoming, Montana, and North Dakota, and farm machinery and farm implements, and parts thereof, hardware, seeds, farm produce, fruits and vegetables, from points and places in Iowa and Minnesota to Ree Heights, S. Dak., and points and places within 30 miles thereof. Albert E. Bertsch, Miller, S. Dak. 57372, representative for applicants.

No. MC-FC-69266. By order of December 15, 1966, the Transfer Board approved the transfer to Donald O. Trent, doing business as Trent's Freight Line, Sneedville, Tenn., of the operating rights of Carson Reed, Jr., doing business as Reed Freight Line, Sneedville, Tenn., in certificate of registration No. MC-96930 (Sub-No. 1) issued July 22, 1966, authorizing the transportation, as a common carrier, of property starting at Knoxville, Tenn., and continuing over specified routes to Sneedville, and beginning at Thorn Hill, and continuing over specified routes to Treadway. Howard W. Rhea, Sneedville, Tenn. 37689, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-13802; Filed, Dec. 22, 1966; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
3755 ... 15227
3756 ... 15229
3757 ... 15231
3758 ... 15567

EXECUTIVE ORDERS:
8278 (revoked in part by PLO 4119) ... 16202
10214 (see EO 11317) ... 15305
10707 (amended by EO 11319) ... 15629
11317 ... 15305
11318 ... 15307
11319 ... 15629
11320 ... 15789
11321 ... 16301

5 CFR

213 ... 15133, 15646, 15727, 16303, 16347, 16348
550 ... 16187
870 ... 15233

6 CFR

73 ... 16264
... 15233

7 CFR

5 ... 15631
16 ... 15483, 15791
709 ... 15791
717 ... 16401
722 ... 15142, 15316, 15791
728 ... 15792
730 ... 15529
811 ... 15581, 16303
813 ... 15483
905 ... 15059, 15189, 15584, 16183
906 ... 15233, 16401, 16402
907 ... 15190, 15316, 15585, 15727, 16184, 16304
910 ... 15190, 15585, 15631, 16185, 16225
911 ... 15484
944 ... 15484
948 ... 15234
959 ... 15530
972 ... 15728
989 ... 15145, 16305
1002 ... 15585
1003 ... 15060
1005 ... 15061
1006 ... 15061
1008 ... 15061
1009 ... 15061
1011 ... 15061
1012 ... 15061
1013 ... 15062
1016 ... 15063
1031 ... 15061
1032 ... 15061, 15064, 15631, 15793
1033 ... 15061
1034 ... 15061
1035 ... 15061
1036 ... 15061
1038 ... 15061
1039 ... 15061
1040 ... 15061
1041 ... 15061, 15074
1043 ... 15061
1044 ... 15061
1045 ... 15061, 16225
1046 ... 15061
1047 ... 15061

7 CFR—Continued

Page

1049 ... 15061
1050 ... 15061, 15076, 15631
1051 ... 15061
1062 ... 15061
1063 ... 15061
1064 ... 15061, 16308
1065 ... 15061
1066 ... 15061
1068 ... 15061, 15086
1069 ... 15061
1070 ... 15061
1071 ... 15061
1073 ... 15061
1075 ... 15061
1076 ... 15061
1078 ... 15061
1079 ... 15061
1090 ... 15061
1094 ... 15061
1096 ... 15061
1097 ... 15061
1098 ... 15061
1101 ... 15061
1102 ... 15061
1103 ... 15061
1106 ... 15061
1108 ... 15061
1125 ... 15061
1126 ... 15061
1131 ... 15061
1132 ... 15061
1133 ... 15061
1136 ... 15061
1137 ... 15061, 15087
1138 ... 15061
1464 ... 15485
1468 ... 15234
1472 ... 15234
1865 ... 16225
Ch. XVII ... 16225

PROPOSED RULES:
Ch. IX ... 15594
52 ... 15149, 15151
718 ... 15810
812 ... 15323
817 ... 15147
907 ... 16470
910 ... 15544
971 ... 15153
980 ... 16159
987 ... 15746
992 ... 15153
1001 ... 15811
1002 ... 16273
1004 ... 15670, 16471
1015 ... 15811
1032 ... 15598
1034 ... 16204
1064 ... 15544
1101 ... 15154
1106 ... 15598, 16365
1126 ... 15598, 16365
1131 ... 16277

8 CFR

204 ... 15322
235 ... 16125
245 ... 15235
249 ... 15235
252 ... 15322
264 ... 16125
299 ... 15235, 15322

9 CFR

Page

74 ... 16347
78 ... 16308
131 ... 16185

PROPOSED RULES:
1 ... 16110
2 ... 16110
3 ... 16112
71 ... 15670

10 CFR

1 ... 16309
2 ... 16309
9 ... 15145
20 ... 15145
32 ... 15145
40 ... 15145
50 ... 15145
150 ... 15145

PROPOSED RULES:
30 ... 15747
32 ... 15747
40 ... 16367

12 CFR

204 ... 15793, 16310
217 ... 15793, 16311
327 ... 15794
329 ... 15794
526 ... 15728, 15729
546 ... 15235, 15569
569 ... 15729
Ch. VI ... 16227

PROPOSED RULES:
525 ... 15158

13 CFR

121 ... 15145, 15737

PROPOSED RULES:
107 ... 15603
121 ... 16209

14 CFR

39 ... 15191, 15317, 15634, 16125, 16126, 16264, 16265, 16311, 16347, 16406.
47 ... 15349
49 ... 15349
71 ... 15087, 15236, 15237, 15531, 15569, 15635, 15796–15799, 16127, 16200, 16407
73 ... 15087, 15088, 15531, 15799, 16127
75 ... 15088, 15237, 15799
91 ... 15317
97 ... 15134, 15636, 16128, 16408
121 ... 15191
151 ... 15730

PROPOSED RULES:
23 ... 16367
25 ... 16367
27 ... 16367
29 ... 16367
39 ... 15813, 16161, 16368, 16469
67 ... 15324
71 ... 15096, 15097, 15242, 15243, 15545, 15600, 15703, 15814, 15815, 16208, 16278, 16469, 16470.
73 ... 15815, 16209, 16470
75 ... 16161, 16278
101 ... 15490, 15750

14 CFR—Continued

PROPOSED RULES—Continued

208 ... 15811
214 ... 15811
295 ... 15811
399 ... 15747

15 CFR

204 ... 16186
230 ... 15309
700 ... 16265

16 CFR

13 ... 15192, 15800, 15801, 16348, 16349, 16351
15 ... 15238
142 ... 16266

17 CFR

PROPOSED RULES:

240 ... 15750, 16321
249 ... 16321

18 CFR

8 ... 16201
141 ... 16201
154 ... 15485
260 ... 15309

PROPOSED RULES:

154 ... 15325, 16279
260 ... 15325

19 CFR

1 ... 15193, 16312
2 ... 15349
4 ... 16142
8 ... 15644
16 ... 15644
25 ... 15644

PROPOSED RULES:

6 ... 15587
24 ... 15544

20 CFR

250 ... 15238
345 ... 15238, 16265
405 ... 16137
602 ... 16187

PROPOSED RULES:

404 ... 15198
602 ... 15490

21 CFR

1 ... 15730
2 ... 15088
3 ... 16266, 16403
5 ... 15730
17 ... 15088
53 ... 16266
80 ... 15730, 16312
121 ... 15089, 15090, 15193, 15239, 15309, 15349, 15570.
125 ... 15730
191 ... 15091

PROPOSED RULES:

17 ... 15095
80 ... 15746
130 ... 15096

22 CFR

51 ... 16143
121 ... 15174
122 ... 15174
123 ... 15174
124 ... 15174
125 ... 15174

22 CFR—Continued

126 ... 15174
127 ... 15174
201 ... 15195
208 ... 15571

23 CFR

209 ... 16267
215 ... 15197

PROPOSED RULES:

245 ... 15212, 15600

24 CFR

201 ... 16268
203 ... 16187, 16268
207 ... 16187, 16268
213 ... 16268
220 ... 16187
221 ... 16269
234 ... 16269
1000 ... 16269

26 CFR

31 ... 16269
301 ... 15736

PROPOSED RULES:

1 ... 15587
31 ... 15095, 15587
46 ... 16157
48 ... 16157
49 ... 16157

29 CFR

60 ... 16412

PROPOSED RULES:

4 ... 15702
60 ... 16466
522 ... 15200

30 CFR

Ch. I ... 15745

31 CFR

100 ... 16226

32 CFR

80 ... 16188
83 ... 16351
155 ... 16188
711 ... 16193
713 ... 15531
717 ... 15318
718 ... 15318
719 ... 16312
730 ... 16404, 16405
731 ... 15801
733 ... 16193
735 ... 15801
817 ... 16143
824 ... 15318
825a ... 15318
836 ... 16143
861 ... 15540
871 ... 15318
902 ... 16352

32A CFR

BDSA (Ch. I):

M–11A, Schedule A ... 15319
M–11A, Dir. 1 ... 15320
M–11A, Dir. 2 ... 15321

OIA (Ch. X):

OI Reg. 1 ... 15803

33 CFR

2 ... 16198
23 ... 15239
202 ... 16144
203 ... 15310
207 ... 15310

PROPOSED RULES:

201 ... 15810

36 CFR

29 ... 15804
211 ... 16357

38 CFR

1 ... 15091, 15092
3 ... 15631
14 ... 16415
17 ... 16144, 16199
21 ... 16199

39 CFR

Ch. I ... 15350, 16270, 16271
125 ... 15745

41 CFR

Ch. 2 ... 16420
1–3 ... 15805
1–4 ... 16417
1–10 ... 15092
1–16 ... 15092
8–1 ... 15311, 16199
8–3 ... 16312
8–7 ... 15312
8–10 ... 16200
8–11 ... 16312
8–14 ... 15312
9–51 ... 16200
11–50 ... 15239
101–26 ... 15571
101–38 ... 15571
101–45 ... 15094
101–47 ... 15541

PROPOSED RULES:

50–202 ... 16160

42 CFR

73 ... 15092

43 CFR

1820 ... 15541
3130 ... 16272
3140 ... 16272
3150 ... 16272
3160 ... 16272
3180 ... 16272

PUBLIC LAND ORDERS:

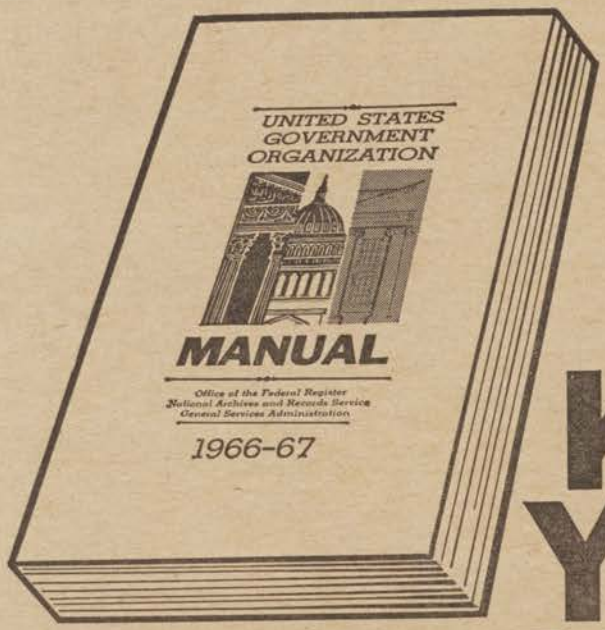
1182 (see PLO 4119) ... 16202
4119 ... 16202

44 CFR

801 ... 15312
802 ... 15312
803 ... 15312
804 ... 15312

46 CFR

2 ... 15266
3 ... 15266
10 ... 15266, 15669
11 ... 15669
12 ... 15669
25 ... 15267
30 ... 15267
31 ... 15267



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