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How To Find U.S. Statutes and United States Code Citations

[Revised Edition—1965]

This pamphlet contains typical legal references which require further citing. The official published volumes in which the citations may be found are shown alongside each reference—with suggestions as to the logical sequence to follow in using them. Additional finding aids, some especially useful in citing current legislation, also have been included. Examples are furnished at pertinent points and a list of references, with descriptions, is carried at the end.

This revised edition contains illustrations of principal finding aids and reflects the changes made in the new master table of statutes set out in the 1964 edition of the United States Code.

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Pursuant to section 4 of the Child Nutrition Act of 1966, Public Law 89-642, 80 Stat. 886, food assistance funds available for the fiscal year ending June 30, 1967, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$37,807	$36,871	$936
Alaska	37,807	37,807	
Arizona	37,807	36,205	1,602
Arkansas	37,807	36,691	1,116
California	37,807	37,807	
Colorado	37,807	34,958	2,849
Connecticut	37,807	37,807	
Delaware	37,807	37,410	397
District of Columbia	37,807	37,807	
Florida	37,807	36,990	817
Georgia	37,807	37,807	
Guam	11,345	6,575	4,770
Hawaii	37,807	35,442	2,365
Idaho	37,807	36,635	1,172
Illinois	37,807	37,807	
Indiana	37,807	37,807	
Iowa	37,807	33,110	4,697
Kansas	37,807	37,807	
Kentucky	37,807	37,807	
Louisiana	37,807	37,807	
Maine	37,807	33,535	4,272
Maryland	37,807	36,456	1,351
Massachusetts	37,807	37,807	
Michigan	37,807	34,029	3,778
Minnesota	37,807	32,944	4,863
Mississippi	37,807	37,807	
Missouri	37,807	37,807	
Montana	37,807	35,361	2,446
Nebraska	37,807	31,755	6,052
Nevada	37,807	37,489	318
New Hampshire	37,807	37,807	
New Jersey	37,807	32,773	5,034
New Mexico	37,807	37,807	
New York	37,807	37,807	
North Carolina	37,807	37,807	
North Dakota	37,807	33,519	4,288
Ohio	37,807	33,874	3,933
Oklahoma	37,807	37,807	
Oregon	37,807	37,807	
Pennsylvania	37,807	33,003	4,804
Puerto Rico	37,807	37,807	
Rhode Island	37,807	37,807	
South Carolina	37,807	37,384	423
South Dakota	37,807	37,807	
Tennessee	37,807	37,178	629
Texas	37,807	36,252	1,555
Utah	37,807	37,633	174
Vermont	37,807	37,807	
Virginia	37,807	37,146	661
Virgin Islands	11,345	11,345	
Washington	37,807	36,675	1,132
West Virginia	37,807	36,993	814
Wisconsin	37,807	30,321	7,486
Wyoming	37,807	37,807	
American Samoa	11,346	11,346	
Total	2,000,000	1,925,266	74,734

(Secs. 2, 4, 6, and 8 through 16, 80 Stat. 885-890; 42 U.S.C. 1771, 1773, 1775, 1777-1785)

Dated: January 12, 1967.

ROY W. LENNARTSON,
Associate Administrator.

[F.R. Doc. 67-568; Filed, Jan. 17, 1967; 8:45 a.m.]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS

Appendix—Initial Apportionment of Nonfood Assistance Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1967

Pursuant to section 5 of the Child Nutrition Act of 1966, Public Law 89-642, 80 Stat. 887, nonfood assistance funds available for the fiscal year ending June 30, 1967, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$23,319	$22,742	$577
Alaska	805	805	
Arizona	6,651	6,369	282
Arkansas	13,996	13,583	413
California	30,868	30,868	
Colorado	7,363	6,808	555
Connecticut	6,666	6,666	
Delaware	1,658	1,641	17
District of Columbia	1,133	1,133	
Florida	29,728	29,086	642
Georgia	32,928	32,928	
Guam	557	323	234
Hawaii	4,770	4,472	298
Idaho	3,419	3,313	106
Illinois	22,674	22,674	
Indiana	17,231	17,231	
Iowa	14,368	12,583	1,785
Kansas	8,586	8,586	
Kentucky	22,281	22,281	
Louisiana	30,468	30,468	
Maine	4,107	3,643	464
Maryland	10,138	9,776	362
Massachusetts	17,246	17,246	
Michigan	19,726	17,755	1,971
Minnesota	17,182	14,972	2,210
Mississippi	20,370	20,370	
Missouri	18,357	18,357	
Montana	2,413	2,257	156
Nebraska	5,679	4,770	909
Nevada	658	652	6
New Hampshire	2,091	2,091	
New Jersey	9,935	8,612	1,323
New Mexico	5,530	5,530	
New York	46,971	46,971	
North Carolina	37,312	37,312	
North Dakota	3,805	3,373	432
Ohio	30,050	26,924	3,126
Oklahoma	10,640	10,640	
Oregon	6,985	6,985	
Pennsylvania	29,956	26,150	3,806
Puerto Rico	20,247	20,247	
Rhode Island	1,398	1,398	
South Carolina	23,166	22,907	259
South Dakota	3,234	3,234	
Tennessee	24,342	23,839	503
Texas	35,117	33,672	1,445
Utah	5,878	5,851	27
Vermont	1,347	1,347	
Virginia	21,409	21,034	375
Virgin Islands	600	600	
Washington	9,567	9,281	286
West Virginia	9,480	9,276	204
Wisconsin	14,201	11,389	2,812
Wyoming	1,335	1,335	
American Samoa	159	159	
Total	750,000	724,515	25,485

(Secs. 2, 5, 6, and 8 through 16, 80 Stat. 885-890; 42 U.S.C. 1771, 1774, 1775, 1777-1785)

Dated: January 12, 1967.

ROY W. LENNARTSON,
Associate Administrator.

[F.R. Doc. 67-567; Filed, Jan. 17, 1967; 8:45 a.m.]

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

[Navel Orange Reg. 120, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, 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), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel 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 amendment 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 amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Naval oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1)(i), (ii), and (iii) of § 907.420 (Naval Orange Regulation 120, 32 F.R. 121) are hereby amended to read as follows:

§ 907.420 Navel Orange Regulation 120.

* * * * *

(b) * * *. (1) * * *

(i) District 1: 750,000 cartons;

(ii) District 2: 195,000 cartons;

(iii) District 3: 50,000 cartons.

* * * * *

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

Dated: January 13, 1967.

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

[F.R. Doc. 67-587; Filed, Jan. 17, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT

[Docket No. 7877; Amdt. 39-339]

PART 39—AIRWORTHINESS DIRECTIVES

Howard Model 500 and Lockheed Model PV-1 Series Airplanes

There have been reports of cracks found in the elevator torque tube collars, P/N 5-408380-1, on Howard Model 500 and Lockheed Model PV-1 Series airplanes. Cracks in these collars could result in their failure, a resulting loss of elevator control, and physical loss of the elevator. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the elevator torque tube collars, P/N 5-408380-1, and replacement of those parts found cracked.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is impracticable, and good cause exists for making this amendment 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 Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HOWARD AND LOCKHEED. Applies to all Howard Model 500 Series airplanes and Lockheed Model PV-1 Series airplanes, Serial Numbers, 5275, 5336, 5892, 5497, 5331, 5599, 5272, 5372, 5283, 4385, 4401, 6642, 5373, 5500, 5554, 5560, 5494, 5280, 5700, 5598, 5696, 5894, 2020, 5591, 5267, 5702, 5694, 5887, 5891, 5705, 5371, 5489, 5492, 5274, and 5289.

Compliance required as indicated.

To detect cracked elevator torque tube collars, P/N 5-408380-1, unless already accomplished, within the next 10 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours' time in service from the date of the last inspection, inspect the elevator torque tube collars P/N 5-408380-1 for cracks in the radius using dye penetrant or an FAA-approved equivalent. Before further flight, replace parts found cracked in accordance with Dee Howard Co., San Antonio, Tex., Drawing Number 13-0766-008 or later FAA Engineering and Manufacturing Branch approved equivalent. The inspection provisions of this AD may be discontinued when P/N 5-408380-1 is replaced in accordance with this AD.

This amendment is effective January 23, 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 January 10, 1967.

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

[F.R. Doc. 67-536; Filed, Jan. 17, 1967; 8:45 a.m.]

[Docket No. CE-67-AD-1; Amdt. 39-343]

PART 39—AIRWORTHINESS DIRECTIVES

Champion Aircraft Models 7ECA, 7GCAA, 7GCBC and 7GCB

A recent accident in Champion Model 7ECA aircraft during performance of acrobatic maneuvers resulted when the rudder pedal jammed in the full left position. The jamming occurred when the foot guide on the outboard end of the left forward rudder pedal engaged the lower bracket supporting the fuel shutoff valve. Champion has designed a guard for attachment to the lower fuel valve bracket fitting to prevent jamming of the rudder pedal for this reason. Champion's Service Letter No. 73 covers installation of this pedal guard. Current production aircraft will be equipped with it by the factory. Since this condition can be caused by overloading the left forward rudder pedal during acrobatic maneuvers, an airworthiness directive is being issued to prohibit acrobatic maneuvers in this model aircraft until the modification covered in Champion Service Letter No. 73 is accomplished. It must be accomplished within 25 hours time in service following the effective date of this airworthiness directive.

Because the condition can occur at any time, safety in air commerce requires immediate adoption of this regulation, and it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

CHAMPION. Applies to Models 7ECA, 7GCAA, 7GCBC, and 7GCB.

Compliance required as indicated.

(a) Until the lower bracket supporting the fuel shutoff valve is modified in accordance with Champion Service Letter No. 73, acrobatic maneuvers in aircraft of these models may not be performed.

(b) Within 25 hours time in service after the effective date of this airworthiness directive, the lower bracket supporting the fuel shutoff valve must be modified by the installation of Champion P/N 1-9363 in accordance with the instructions contained in Champion Service Letter No. 73 dated January 13, 1967.

This amendment becomes effective upon publication in the FEDERAL REGISTER.

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

Issued in Kansas City, Mo., on January 13, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67-672; Filed, Jan. 17, 1967; 9:16 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 66-WE-71]

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

Alteration of Transition Area

JANUARY 9, 1967.

On November 18, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 14687) stating that the Federal Aviation Agency proposed to alter the controlled airspace in The Dalles, Oreg., terminal area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., April 27, 1967, as hereinafter set forth:

In § 71.181 (31 F.R. 2261) The Dalles, Oreg., transition area is amended as follows:

THE DALLES, OREG.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of The Dalles Municipal Airport (latitude 45°37'05" N., longitude 121°10'05" W.), that airspace S of The Dalles, extending from a line 2 miles E clockwise to a line 2 miles NW of The Dalles VORTAC (latitude 45°42'50" N., longitude 121°05'59" W.) 187° and 207° radials respectively, extending from the 5-mile radius area to the arc of an 11.5-mile radius circle centered on The Dalles Municipal Airport; that airspace extending upward from 1,200 feet above the surface within 8 miles N and 6 miles S of The Dalles VORTAC 281° and 101° radials, extending from 7 miles W to 14 miles E of the VORTAC; within 5 miles N of The Dalles VORTAC 101° radial, extending from 14 miles E to 23 miles E of the VORTAC, and that airspace within a 23-mile radius of The Dalles VORTAC, extending clockwise from the 101° radial to the 272° radial, excluding the airspace within the Portland, Oreg., transition area.

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

Issued in Los Angeles, Calif., on January 9, 1967.

JOSEPH H. TIPPETS,
Director, Western Region.

[F.R. Doc. 67-537; Filed, Jan. 17, 1967; 8:45 a.m.]

[Airspace Docket No. 66-WE-54]

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

Designation of Control Zone and Transition Area

On October 22, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 13669) stating that the Federal Aviation Agency proposed to alter the controlled airspace in the Palm Springs, Calif., terminal area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented.

One objection to the proposal was received from the owner of Palm Desert Airpark, Palm Desert, Calif., on the basis that the proposed transition area would interfere with the Palm Desert Airpark and its related traffic pattern to the north. Correspondence was also received from the California Aeronautics Division and the Airports Director, County of Riverside, Calif., in support of the objection regarding the Palm Desert Airpark. The transition area was modified to the satisfaction of all concerned and is reflected in the final rule.

Since the alteration of the transition area is minor in nature and imposes no additional burden on any person, additional notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., March 30, 1967, as hereinafter set forth:

In § 71.171 (31 F.R. 2065) the following control zone is added:

PALM SPRINGS, CALIF.

Within a 5-mile radius of Palm Springs Airport (latitude 33°49'36" N., longitude 116°30'18" W.), and within 2 miles each side of the Palm Springs VOR 120° and 300° radials, extending from 3.5 miles SE to 3 miles NW of the VOR. This control zone will be effective from 0600 to 2200 hours, local time, daily.

In § 71.181 (31 F.R. 2149) the following transition area is added:

PALM SPRINGS, CALIF.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Palm Springs Airport (latitude 33°49'36" N., longitude 116°30'18" W.), within 2 miles NE and 5 miles SW of the Palm Springs VOR 120° and 300° radials, extending from 3 miles NW to 8.5 miles SE of the VOR, and within 3 miles S of the 104° bearing from the Palm Springs Airport, extending from the 5-mile radius area to 10 miles E of the airport.

(Sec. 307(a), Federal Aviation Regulations, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on January 11, 1967.

JOSEPH H. TIPPETS,
Director, Western Region.

[F.R. Doc. 67-538; Filed, Jan. 17, 1967; 8:45 a.m.]

[Airspace Docket No. 66-AL-9]

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

Designation of Transition Area, Alteration of Transition Area and Control Zone, and Revocation of Control Area Extension

On November 9, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 14410), stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the controlled airspace in the vicinity of Kodiak, Alaska.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable; however, the Department of the Navy questioned the need for the 700-foot portion of the transition area.

A review of the current instrument approach radar procedure for the Kodiak Airport indicates that the radar pattern altitude of 1,500 feet is contained within the 1,200-foot transition area. Accordingly, we agree there is no requirement for the 700-foot transition area and appropriate action is taken herein. Since this modification will relieve a burden on the public, the Administrator has determined that further notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., March 30, 1967, as hereinafter set forth.

1. In § 71.165 (31 F.R. 2055) the Kodiak, Alaska control area extension is revoked.

2. In § 71.171 (31 F.R. 2065) the Kodiak, Alaska control zone is amended to read:

KODIAK, ALASKA

Within a 5-mile radius of Navy Station Kodiak Airport (latitude 57°44'50" N., longitude 152°29'40" W.); within 2 miles each side of the Kodiak TACAN 094° radial, extending from the 5-mile radius zone to 7 miles E of the TACAN; and within 2 miles S and 2.5 miles N of the Kodiak RR E and W courses, extending from the 5-mile radius zone to 8 miles E of the RR.

3. In § 71.181 (31 F.R. 2149) the King Salmon, Alaska transition area is amended by deleting "the Kodiak, Alaska, control area extension and the Anchorage control area extension."

4. In § 71.181 (31 F.R. 2149) the Kodiak, Alaska transition area is added as follows:

KODIAK, ALASKA

That airspace extending upward from 1,200 feet above the surface within a 29-mile radius of Navy Station Kodiak Airport latitude 57°44'50" N., longitude 152°29'40" W.), extending clockwise from the 085° bearing to the 040° bearing from the airport; within a 35-mile radius of Navy Station Kodiak Airport, extending clockwise from the 040° bearing to the 085° bearing from the airport; and that airspace extending upward from 14,500 feet MSL within 16 miles S and 25 miles N of the Kodiak TACAN 094° radial; extending from 8 miles E of the TACAN to 58 miles E of the TACAN, excluding the King Salmon, Alaska, transition area.

(Secs. 307(a), 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510; E.O. 10854 (24 F.R. 9565))

Issued in Washington, D.C., on January 10, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-539; Filed, Jan. 17, 1967; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-482]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Definitions of Transatlantic and Transpacific Charter Trips

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of January 1967.

In EDR-101, June 10, 1966, Docket 16911, 31 F.R. 8438, the Board gave notice that it had under consideration an amendment to Part 207 of the Board's Economic Regulations, proposed by Pan American World Airways, which would eliminate the definitions of "Hawaiian charter trip," "transatlantic charter trip," and "transpacific charter trip" as set forth in § 207.1 and apply to such charter trips the same definition of "point" provided in § 207.1 for all other charter trips. The Board further stated therein that it would also consider whether the above amendment should be made applicable to all United States certificated route carriers or whether favorable consideration should be given to those carriers certificated to serve the foreign and off-shore areas involved, and whether special rules should be made applicable to large scale incentive charters operated by route carriers.

In response to EDR-101, comments have been filed by four certificated route carriers,[1] four supplemental carriers,[2] and two all-cargo carriers.[3] In addition, reply comments were filed by Pan American and three supplemental carriers.[4] Generally speaking, the proposed amendment is supported by the certificated route carriers and opposed by the supplemental carriers.[5]

The definitions at issue herein were added to Part 207 in 1965 as part of an amendment[6] designed to prevent certificated route carriers from concentrating their entire annual quota of off-route charters in a single market, a practice which the Board believed could lead to undue diversion from the on-route services of regular route carriers and from the charter services of supplemental carriers. This amendment took the form of frequency and regularity restrictions

[1] Braniff Airways, Pan American World Airways, Trans Caribbean Airways, and United Air Lines.

[2] American Flyers Airline, Saturn Airways, Trans International Airlines, and World Airways.

[3] Seaboard World Airlines and Flying Tiger Line.

[4] American Flyers, Saturn and World.

[5] The two all-cargo carriers, who submitted separate proposals of their own (see footnote 8, infra), stated that they have no objection to the proposed amendment.

[6] Regulation ER-443, Sept. 2, 1965, Docket 15944.

imposed on off-route charters between any pair of "points." Additionally, in the transatlantic, transpacific and mainland-Hawaii markets, the limitations were imposed on a marketwide basis so that any flight between the 48 contiguous States, on the one hand, and a point in one of these markets was to be counted against the total number and frequency of flights authorized between a single pair of points. The Board believed that further restrictions were desirable in the three specified markets because each is a particularly attractive target for off-route charter operations by route carriers.

In their comments, the route carriers contend that the disputed definitions prevent them from effectively competing for off-route charters, particularly large scale incentive charters, with foreign carriers whose off-route operations are not subject to the limitations imposed on U.S. route carriers, and, as a consequence, the U.S. balance-of-payments position is adversely affected.[1] It is further contended that the economic position of the supplemental carriers has improved substantially since the Board adopted these definitions, thus obviating the necessity for the protection they afford.

The supplementals argue, on the other hand, that the route carriers have traditionally demonstrated a lack of interest in off-route charters, a field which will be more effectively developed by having specialists such as the supplementals who are afforded the necessary regulatory protection; that the increasing participation of the supplementals in the charter markets involved shows that they, rather than foreign carriers, have been the primary beneficiary of the restrictions at issue; and that the protection afforded by these restrictions will continue to be needed, particularly in view of the supplementals' substantial investment in jet aircraft and the uncertain duration of the increased military revenues stemming from the Viet Nam situation.[2]

After careful consideration of the comments submitted herein, and other relevant facts, we believe the following conclusions can be reached in terms of what can be expected to transpire in the reasonably foreseeable future. Under present conditions, charterers who are unable to charter via U.S. flag carriers due to Part 207 restrictions will, to a considerable extent, turn for their air transportation to foreign carriers, rather than to U.S. supplementals, because of the supplementals' shortage of capacity caused by the demands of the Viet Nam situation. There is also an indication of a preference on the part of some charterers for foreign scheduled carriers over U.S. supplementals. In either event, the effect of the current regulatory framework will be to prevent chartering groups from traveling on U.S. flag carriers where they desire to do so and, to the extent such charters are ultimately carried by foreign carriers, to cause a corresponding drain on the U.S. balance of payments. It also appears that the Viet Nam situation is providing the supplementals with a substantial source of revenue, with the consequence that they should not be injured by the diversion of the modest amounts of commercial charter revenues to U.S. route carriers which can be expected if the Part 207 restrictions are eased.

On balance, we believe the reasons justifying a liberalization of the restrictions at issue herein, as outlined above, outweigh the economic necessity of protecting the supplementals to the extent currently afforded by Part 207, at least for the short term future. Accordingly, and in view of the established policy of encouraging the maximum use of U.S. carriers in the air transport of passengers to and from the United States, we have determined to exempt from the restrictive effect of the definitions of "transatlantic" and "transpacific" charter trips the route carriers certificated to serve whichever of those areas is involved.[3] There has been no showing for a need for the relaxation provided by the foregoing amendment except as to route carriers operating in the transatlantic and transpacific markets, and the effect of the amendment is therefore being confined to these carriers. We have further determined not to amend the definition of "Hawaiian charter trip" in a similar manner since there is no possibility of diversion to foreign carriers in this market. Finally, it should be emphasized that our action herein will be subject to further examination in the event of a change in the overall U.S. balance of payments situation or of changes in the charter markets which might adversely affect the supplemental carriers, including reduced military requirements.

In view of the fact that the amendment involved herein relieves a restriction, it can be made effective upon less than 30 days notice. Accordingly, the Board hereby amends Part 207 of its Economic Regulations (14 CFR 207), effective January 18, 1967, by revising § 207.1 to read as follows:

§ 207.1 Definitions.

As used in this part, unless the context otherwise requires:

* * * * *

"Transatlantic charter trip" means a charter trip between points within the 48 contiguous States of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, or Asia, as far east as (and including) India, on the other hand, performed by any air carrier other than Pan American World Airways, Inc. and Trans World Airlines, Inc.

"Transpacific charter trip" means a charter trip between points within any State of the United States, on the one hand, and points in Australasia (including Australia, New Zealand, Polynesia, Micronesia, and Melanesia), Indonesia, or Asia as far west as longitude 70 degrees east, on the other hand, performed by any air carrier other than Northwest Airlines, Inc., and Pan American World Airways, Inc.

(Secs. 204(a), 401(e)(6), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324, 72 Stat. 754, as amended by 76 Stat. 143; 49 U.S.C. 1371)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-579; Filed, Jan. 17, 1967; 8:48 a.m.]

[Reg. ER-481]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Removal of Regularity Limitations on Air Taxi Operations in Hawaii

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of December 1966.

In a notice of proposed rule making published in the FEDERAL REGISTER on August 16, 1966 (31 F.R. 10894) and circulated to the industry as EDR-103, Docket 17614, the Board proposed to amend Part 298 of its Economic Regulations (14 CFR Part 298) so as to remove the present regularity limitations of § 298.21(e)(2) on point-to-point air taxi operations within Hawaii. These limitations permit air taxi operators in

[1] Pan American asserts that 46 transatlantic or transpacific off-route charters (representing income of $1.38 million) for which it was unable to entertain requests for operation in 1966 or 1967, largely because of Part 207 restrictions, were ultimately carried by or are under contract to foreign airlines.

[2] In addition to the carrier comments summarized above, Trans Caribbean urges the Board to exclude from all Part 207 limitations single-entity incentive charters between points in the 48 contiguous States and overseas and foreign points which the carrier is authorized to serve, while Flying Tiger Line and Seaboard World Airlines recommend that the Board relax the current restrictions on passenger and cargo charters operated by all-cargo carriers. In view of the fact that these comments are not responsive to the Board's notice of proposed rule making, but rather are directed to changes in Part 207 other than those proposed by Pan American, we shall not consider the foregoing proposals in this particular proceeding. It should be noted that the proposals of the two all-cargo carriers have been made the subject of separate petitions for proposed rule making. (See Dockets 17623 and 17756.)

[3] The transatlantic carriers coming within the exemption are Pan American and Trans World Airlines, while the transpacific carriers affected are Pan American and Northwest Airlines.

Hawaii to provide regular service only to or from an airport which is located 15 or more air miles from the nearest airport served by a certificated route carrier, and such service authorization is conditioned upon a reporting requirement. The notice proposed to remove this regularity limitation, but to retain the reporting requirement. Interested persons were invited to submit pertinent information and data with respect to the proposed rule.

Pursuant to the above notice, 17 comments were received,[1] 16 of which support the proposed rule.[2] Only one comment, that of the certificated route carrier, Hawaiian Airlines, Inc., opposes it.

Interested persons have been afforded an opportunity to participate in the making of this rule, and due consideration has been given to all relevant matter presented. We shall adopt the rule as proposed.

The supporting comments clearly substantiate the need for regular air taxi service, supplementary to the scheduled service provided by route carriers, which cannot be provided under the present regularity restrictions.[3] These comments point out that scheduled air taxi services are not competitive with the services provided by the certificated carriers, in that they provide a different type service, catering to different traffic, at necessarily higher fares and with less desirable equipment.[4] It is urged that with the marked improvement of the financial position of the certificated Hawaiian route carriers, there is no longer justification for retention of the protective regularity restrictions, and that removal of the restrictions would place Hawaiian air taxi operators on a par with air taxi operators in the continental United States. The financial improvement of the certificated carriers (Hawaiian and Aloha) has been such that the Board has removed these carriers from subsidy effective January 1, 1967.[5]

Hawaiian[6] bases its opposition to the removal of the regularity limitations on three grounds: (1) That such action would cause significant diversion of its traffic; (2) that the circumstances which led the Board to remove the regularity limitations on air taxi operations on the mainland are not applicable to Hawaii; and (3) that the impact on Hawaiian will be more significant by reason of the imminent removal of the route carrier from subsidy and possible adverse action in three pending Board proceedings.[7]

Hawaiian asserts that with the removal of the present restrictions the air taxis will concentrate their services at dense traffic markets, in direct competition with the route carriers, thereby causing substantial diversion and detracting from their primary and legitimate function of service to remote points at small airfields, which they alone can provide, and which are completely dependent upon them for interisland common carrier passenger service. It urges that the Hawaiian situation differs from the mainland in that a large portion of the traffic within Hawaii is tourist traffic, that this traffic is to a large extent a captive of the travel agent and tour operator,[8] and that in the absence of regulatory restrictions, the air taxis can, by offering higher commissions, induce travel agents and tour operators to divert the captive tourist traffic from the certificated carriers to them.[9] In addition, Hawaiian maintains that the cumulative impact upon its revenues resulting from this proceeding, its removal from subsidy, and a decision adverse to its interests in the three pending proceedings would be disastrous.

We are not persuaded by Hawaiian's comments to modify the proposed rule. The public in Hawaii is completely dependent on air transportation for interisland common carrier passenger service and air taxis are in a position to provide a needed service supplementary to the scheduled service of the certificated carriers. Nothing presented by Hawaiian convinces us that diversion from the certificated carriers would be substantial or would seriously impair the ability of these carriers to operate free of subsidy. Since the air taxis use small aircraft and operate at higher costs, they cannot compete on an equal basis with the certificated carriers. Thus, the public would be willing to pay the necessarily higher fares of air taxis, and to sacrifice the comfort and convenience of large aircraft, only to the extent that the air taxis provide a needed service not offered by the certificated carriers. With the recent marked increase in the traffic of the certificated carriers, which trend should continue in the future, retention of the regularity limitation for the protection of the certificated carriers is no longer justified. The removal of the restrictions will place the Hawaiian air taxis, in terms of operating authority, on a par with air taxi operators in the 48 contiguous States, and will permit them to provide a service for which there is a demonstrated need.

While Hawaiian urges that substantial diversion would ensue as a result of the higher commissions paid to travel agents by air taxis, a sufficient showing has not been made to convince us that this would take place.[10] The higher commissions which some air taxis may pay to travel agents and tour operators would increase the already higher costs of air taxi operations, and we do not consider it likely that agents and tour operators, for the sake of higher commissions alone, would channel traffic to the higher cost service of air taxis, in lieu of certificated carrier service, unless there were sufficient benefits to their clients to warrant use of the higher cost of service.[11]

In concluding that these restrictions should be removed, we are not unmindful that the Hawaiian certificated carriers

[1] In addition, the Board received 14 letters on behalf of an air taxi, Royal Hawaiian Air Service, in support of the proposed rules.

[2] Four comments were received from air taxi operators (Hawaiian Air Tour Service, Pacific Flight Service, Inc., Royal Hawaiian Air Service, and a joint comment of Sky Tours Hawaiian, Inc. and Pan Pacific Aero, Inc.); three comments from trade associations (Aircraft Owners and Pilots Association, Association of Commuter Airlines, National Air Taxi Conference); and nine comments from the public including three from Hawaiian resort developers, two from residents of Hawaii, and one each from an electric company, a land developer, an insurance firm and a sugar plantation in Hawaii.

[3] For example, Royal Hawaiian points to a number of markets where the two route carriers operate little or no service or service only at inconvenient hours. It asserts that one reason for this is the route carriers' practice of overnighting all aircraft at Honolulu, thereby making impossible convenient early morning service from the outlying points to the primary market of Honolulu (and making impossible satisfactory commuter service from outlying points to Honolulu). Also, a resort at Kawaihae, Island of Hawaii (Olohana Corp.) maintains that the scheduled route carrier service does not serve its needs and that it is willing to pay the higher fares which air taxis charge for needed service. A sugar plantation located on the Island of Hawaii states that it needs commuter service to Honolulu, a service which the certificated route carriers do not provide.

[4] Royal Hawaiian states that on the average its fares have been 12.1 percent above the fares of the certificated carriers.

[5] Order E-24430, dated Nov. 22, 1966, Docket 17768.

[6] The other certificated Hawaiian route carrier, Aloha Airlines, Inc., did not file a comment in this proceeding. However, in another Board proceeding it stated that it does not object to removal of the remaining regularity restrictions on air taxi operations in Hawaii (Aloha's application to engage in air transportation between any two points in the State of Hawaii, Docket 17462).

[7] These proceedings are: (1) Investigation to determine whether one or more U.S. route carriers, presently authorized to provide service only between Honolulu and the mainland, should be certificated to provide direct Hilo-mainland service on a temporary basis (Order E-24067, dated Aug. 11, 1966, Dockets 16518/17615); (2) show cause proceeding to grant the Hawaiian route carriers an "area" type of certificate authorizing them to serve any point in the Islands (Order E-24066, dated Aug. 11, 1966, Docket 17613); (3) rule making proceeding proposing to grant air taxi operators authority to use jet aircraft having a maximum takeoff weight not to exceed 25,000 pounds provided that the maximum seating capacity of such plane does not exceed 12 persons (EDR-93, dated Oct. 5, 1965, Docket 16544).

[8] It asserts that 85 percent of the tourist traffic as well as a substantial portion of resident traffic is controlled by travel agents and tour operators.

[9] It is alleged that air taxis can and do pay commissions of 15 to 20 percent, while the certificated carriers are limited by the Air Traffic Conference resolutions to commissions of 5 to 10 percent.

[10] In this connection we note that the air taxi, Royal Hawaiian, asserts in its comment that it pays a flat 10-percent commission to travel agents.

[11] While Hawaiian maintains that the lack of Government regulation of air taxis would permit them to divert substantial traffic, it is not contended that this lack of regulation would permit air taxi operators to conduct profitable operations at lower fares than those charged by the certificated route carriers.

have been removed from subsidy,[12] and that there are other pending proceedings which Hawaiian claims will, if decided adversely to it, result in substantial diversion of revenues. However, we have concluded that the removal of the present regularity restrictions will not have a substantially adverse effect on the route carriers' ability to operate without subsidy, and to the extent the other pending proceedings might adversely affect it, Hawaiian may submit whatever showing it deems appropriate in those proceedings. The pending proceedings are wholly independent of the present rule making proceeding, and must be decided on their own merits. They provide no justification for retention of the regularity restrictions on air taxis which we have found to be inconsistent with a demonstrated need for the supplementary regular service which the air taxi operators are in a position to provide.

The Board, upon consideration of all the filings herein, finds that the regularity prohibition (§ 298.21(e)(2)) applicable to the State of Hawaii should be removed so as to permit regular and frequent point-to-point air taxi operations there. Such regular service will be authorized for an indefinite period and will be subject to the existing reporting requirements.[13] There has been no showing that the removal of the regularity restriction provided for herein would substantially affect adversely the route carriers' operations. It appears that the air taxi operators have adequate equipment to perform the proposed services and the evidence indicates that there is public need for such services in air transportation by small aircraft. The services of the air taxi operators are relatively limited, and to require them to engage in certification proceedings in order to conduct the proposed services would subject them to a financial burden wholly disproportionate to their operations, would be an undue burden on the air taxi operators, and would not be in the public interest. Therefore, with respect to regular operations of air taxi operators within the State of Hawaii, the Civil Aeronautics Board finds that, except to the extent and subject to the conditions provided in Part 298 as hereinafter amended, the enforcement of the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the rules and regulations issued thereunder, is or would be an undue burden on such air taxi operators by reason of the limited extent of and unusual circumstances affecting their operations and is not in the public interest.

Accordingly, the Civil Aeronautics Board hereby amends Part 298 of its Economic Regulations (14 CFR Part 298), effective February 17, 1967, by modifying § 298.21(e) so as to remove the regularity provisions with respect to point-to-point air transportation within Hawaii. As amended, § 298.21(e) reads as follows:

§ 298.21 Scope of service authorized.

* * * * *

(e) *Regular air taxi service in Hawaii.* Air taxi operators may provide service on a regular and/or frequent basis in Hawaii (1) in tourist sightseeing service as defined in this part, and (2) in other air transportation: *Provided*, That the authorization contained in this subparagraph (2) is conditioned upon the air taxi operator's filing with the Board within 15 days after each semiannual period terminating on June 30 and December 31 of each year a report setting forth for the applicable period (i) all pairs of airports or places between which regular or frequent service was operated; (ii) the number of one-way trips operated for each pair of airports or places; and (iii) the number of one-way passengers carried for each pair of airports or places. The data required by the above proviso may be submitted in such written form as the carrier may choose or on CAB Form 298 which the Board will provide upon request.[14] This report shall be addressed to the Civil Aeronautics Board, Washington, D.C. 20428, Attention: Director, Bureau of Accounts and Statistics.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324(a). Interpret or apply sections 407 and 416, 72 Stat. 766, 771; 49 U.S.C. 1377, 1386)

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-580; Filed, Jan. 17, 1967; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1153]

PART 13—PROHIBITED TRADE PRACTICES

Imported Fabrics by Conell, Inc., and James V. McConnell

Subpart—Importing, Selling, or Transporting Flammable Wear: § 13.1060 *Importing, selling, or transporting flammable wear.* Subpart—Misbranding or Mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat 719, as amended, 67 Stat 111, as amended; 72 Stat. 1717; 15 U.S.C. 45, 1191, 70) [Cease and desist order, Imported Fabrics by Conell, Inc. et al., New York City, N.Y., Docket C-1153, Dec. 29, 1966]

In the Matter of Imported Fabrics by Conell, Inc., a Corporation, and James V. McConnell, Individually and as an Officer of Said Corporation

Consent order requiring a New York City importer and distributor of fabrics to cease importing and selling dangerously flammable fabrics, and misbranding its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Imported Fabrics by Conell, Inc., a corporation, and its officers, and James V. McConnell, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce,

any fabric which, under the provision of section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

It is further ordered, That respondents Imported Fabrics by Conell, Inc., a corporation, and its officers, and James V. McConnell, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivering, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by failing to affix a stamp, tag, label, or other means of identification to each such product showing each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

[12] As of Jan. 1, 1967. See note 5 supra.

[13] The reporting requirement, which expires in August 1967, will be modified to make it applicable for an indefinite period.

[14] Available from Publications Section, Civil Aeronautics Board, Washington, D.C. 20428.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: December 29, 1966.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-549; Filed, Jan. 17, 1967; 8:46 a.m.]

[Docket No. C-1152]

PART 13—PROHIBITED TRADE PRACTICES

Alaskan et al.

Subpart—Advertising Falsely or Misleadingly: § 13.30 *Composition of goods:* 13.30–30 Fur Products Labeling Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–10 Fur Products Labeling Act; § 13.155 *Prices:* 13.155–40 Exaggerated as regular and customary. Subpart—Invoicing Products Falsely: § 13.1108 *Invoicing products falsely:* 13.1108–45 Fur Products Labeling Act. Subpart—Misbranding or Mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–30 Fur Products Labeling Act; § 13.1280 *Price.* Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1845 *Composition:* 13.1845–30 Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Tarses-Gluckman, Inc., doing business as Alaskan, and Crest Furs of Houston, Inc. et al., Houston, Tex., Docket C-1152, Dec. 27, 1966]

In the Matter of Tarses-Gluckman, Inc., a Corporation, Doing Business as Alaskan, and Crest Furs of Houston, Inc., a Corporation, and Irvin Tarses, Wilbur J. Gluckman, and Jules M. Davidson, Individually and as Officers of Said Corporations

Consent order requiring two affiliated Houston, Tex., retail furriers to cease misbranding, deceptively invoicing and falsely advertising its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Tarses-Gluckman, Inc., a corporation, doing business as Alaskan, or under any other name, and its officers, and Crest Furs of Houston, Inc., a corporation, and its officers, and Irvin Tarses, Wilbur J. Gluckman, and Jules M. Davidson, individually and as officers of said corporations, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, selling, advertising, or offering for sale in commerce, or transporting or distributing in commerce any fur product; or from selling, advertising, offering for sale, transporting, or distributing any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act:

A. Unless there is securely affixed to each such product a label showing in words and in figures plainly legible all the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. To which fur product is affixed a label required by section 4(2) of the Fur Products Labeling Act and the rules and regulations promulated thereunder which fails to set forth the item number or mark assigned to each such fur product.

It is further ordered, That respondents Tarses-Gluckman, Inc., a corporation, doing business as Alaskan, or under any other name, and its officers, and Crest Furs of Houston, Inc., a corporation and its officers, and Irvin Tarses, Wilbur J. Gluckman, and Jules M. Davidson, individually and as officers of said corporations, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, into commerce, or the sale, advertising, or offering for sale in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation, or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by representing, directly or by implication on labels, that any price whether accompanied or not by descriptive terminology is the respondents' former price of fur products when such price is in excess of the price at which such fur products have been sold or offered for sale in good faith by the respondents in the recent regular course of business, or otherwise misrepresenting the price at which such fur products have been sold or offered for sale by respondents.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Setting forth on invoices pertaining to fur products any false or deceptive information with respect to the name or designation of the animal or animals that produced the fur contained in such fur product.

3. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

4. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

5. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

6. Failing to set forth the term "natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

7. Failing to set forth separately information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to each section of fur products composed of two or more sections containing different animal furs.

8. Failing to set forth on invoices the item number or mark assigned to each such fur product.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly in the sale, or offering for sale of any fur products, and which:

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(a) of the Fur Products Labeling Act.

2. Falsely or deceptively identifies any such product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

3. Fails to set forth the term "Dyed Mouton Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

4. Fails to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

5. Fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

6. Represents, directly or by implication, on labels or otherwise, that any price, whether accompanied or not by descriptive terminology is the respondents' former price of fur products when such price is in excess of the price at which such fur products have been sold or offered for sale in good faith by the respondents in the recent regular course of business, or otherwise misrepresents the price at which such fur products have been sold or offered for sale by respondents.

7. Misrepresents in any manner the savings available to purchasers of respondents' fur products.

D. Failing to maintain full and adequate records disclosing the facts upon which pricing claims and representations of the types described in subsections (a), (b), (c), and (d) of Rule 44 of the rules and regulations promulgated under the Fur Products Labeling Act, are based.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: December 27, 1966.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-550; Filed, Jan. 17, 1967; 8:46 a.m.]

[File No. 205-3-1]

PART 302—RULES AND REGULATIONS UNDER FLAMMABLE FABRICS ACT

Ornamental Millinery Veils or Veilings

On June 3, 1954 the Federal Trade Commission issued "An Interpretation of section 2(d) of the Flammable Fabrics Act With Respect to Ornamental Millinery Veils or Veilings." Such interpretation was published in the FEDERAL REGISTER on June 9, 1954 at 19 F.R. 3373. The interpretation read:

> Ornamental millinery veils or veilings when used as a part of, in conjunction with, or as a hat, are not to be considered such a "covering for the neck, face, or shoulders" as would, under the first proviso of Section 2(d) of the Flammable Fabrics Act, cause the hat to be included within the definition of the term "article of wearing apparel."

After reconsideration of the matter, the Commission is of the opinion that determination of whether ornamental millinery veils or veilings which are used as a part of, in conjunction with or as a hat are to be considered a "covering for the neck, face, or shoulders," under the first proviso of section 2(d) of the Flammable Fabrics Act should be made on the basis of the facts in each specific situation and that ornamental millinery veils or veilings should not be excluded from the operation of the Flammable Fabrics Act as a class.

Accordingly the aforesaid June 3, 1954, interpretation of section 2(d) of the Flammable Fabrics Act With Respect to Ornamental Millinery Veils or Veilings is rescinded.

Issued: January 13, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-573; Filed, Jan. 17, 1967; 8:48 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-31]

PART 1—GENERAL PROVISIONS

Ports of Entry; Milwaukee, Wis.

JANUARY 9, 1967.

The development of a business and industrial area outside the present port limits of Milwaukee, Wis., has resulted in the need for the expansion of the present port limits. In order to provide customs services to this business and industrial area, it has been decided to extend the port limits of Milwaukee, Wis., to encompass this greater area.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623 (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President in Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authorization given to me by Treasury Department Order No. 190, Rev. 4 (30 F.R. 15769), the geographical limits of the customs port of Milwaukee, Wis., in the Milwaukee, Wis., customs district (Region IX), comprising the metropolitan area of Milwaukee, Wis., are extended to include all of the area within the boundaries of Milwaukee County, Wis.

Section 1.2(c) of the Customs Regulations is amended by inserting "(including the territory described in T.D. 67-31)" after "*Milwaukee" in the column headed "Ports of entry" in the Milwaukee, Wis., district (Region IX).

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 1, 2, 66, 1624)

This Treasury decision shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] TRUE DAVIS, *Assistant Secretary of the Treasury.*

[F.R. Doc. 67-583; Filed, Jan. 17, 1967; 8:48 a.m.]

[T.D. 67-33]

CUSTOMS AUTOMATED ACCOUNTING SYSTEM

A notice of proposed rule making was published in the FEDERAL REGISTER on August 27, 1966 (31 F.R. 11394), and supplemented in the FEDERAL REGISTER on September 17, 1966 (31 F.R. 12409-12412), designed to provide for automation of the appropriation and revenue accounting system of the Bureau of Customs. The notice included proposals for tentative amendment of several sections of the Customs Regulations to establish the new system, to delete reference to customs forms which were to be abolished, and to make other technical and clarifying changes.

The notice stated that prior to taking action on the proposal, consideration would be given to all relevant data, views, or arguments submitted in writing to the Commissioner of Customs.

After careful consideration of all the responses received, the amendments as set forth below are hereby adopted.

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Section 8.8(c) is amended to read as follows:

§ 8.8 Requirements on entry.

* * * * *

(c) A copy of customs Form 5101, Entry Record, shall be prepared and presented by the importer with each dutiable consumption, warehouse, appraisement, vessel repair, or drawback entry. If an importer of record desires to have refunds, bills, or notices of liquidation pertaining to his entry mailed in care of his agent, the agent's importer number shall also be reported on the Form 5101. In such a case, the importer of record shall file or shall have filed previously a Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

* * * * *

§ 8.28 [Amended]

The last sentence of § 8.28(c) is amended to read as follows: "After liquidation of the entry, the Bureau of Customs will bill the proper Department or agency for any duties or charges due the Government."

Section 8.40(b) and the authority citation are amended to read as follows:

§ 8.40 Withdrawals before and after liquidation.

* * * * *

(b) If there is a difference of $3 or more between the total estimated duties and Internal Revenue taxes deposited and the total liquidated duties and taxes accruing on merchandise withdrawn for consumption before the liquidation or reliquidation of the warehouse entry, a notice shall be issued promptly and such difference shall be collected or refunded.

* * * * *

(Sec. 7, 52 Stat. 1081, as amended, secs. 557, 562, 46 Stat. 744, as amended 745, as amended; 19 U.S.C. 1321, 1557, 1562)

(Secs. 484, 624, 46 Stat. 722, as amended, 759; 19 U.S.C. 1484, 1624)

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.21(j) is amended to read as follows:

§ 10.21 Examination procedure; collection of duties and taxes.

* * * * *

(j) When duties and Internal Revenue taxes on articles in a passenger's baggage are collected, a receipt will be issued to the passenger, if such duties and taxes are paid in cash. If such duties

and taxes are paid by personal check, the check will be the passenger's receipt unless a receipt is requested.

* * * * *

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

PART 16—LIQUIDATION OF DUTIES

Section 16.2(c) is amended to read as follows:

§ 16.2 Procedure; notice of liquidation.

* * * * *

(c) When the total amount of duties and Internal Revenue taxes assessed in the liquidation of an entry (other than an informal entry on customs Form 5119 or 5119-A, a mail entry on customs Form 3419, or a baggage entry on customs Form 5123, 6059, or 6063) differs by less than $3 from the total estimated duties and Internal Revenue taxes, including any supplemental estimated duties or Internal Revenue taxes deposited, the entry shall be endorsed "as entered."[8] If there is a difference of $3 or more between the duties and taxes so assessed and the total estimated duties and taxes deposited, the entry shall be endorsed to show the difference and bills or refund checks shall be issued. The assessments of duties and Internal Revenue taxes shall be separately stated on the entries at time of liquidation but the amounts of any differences shall be netted when applying the $3 minimum for issuance of a bill or refund check. In the case of each informal, mail, or baggage entry excepted above, the amount or amounts of duties and taxes computed by a customs officer when the entry is prepared by, or filed with, him shall be considered the liquidated assessment. In the event of a reliquidation of a mail or baggage entry for any reason, the reliquidated duties shall be exactly assessed, if the importer so requests, even though the difference between the liquidated and reliquidated amounts is less than $3; otherwise, any difference under $3 shall be disregarded.

* * * * *

(Sec. 7, 52 Stat. 1081, as amended, secs. 505, 624, 46 Stat. 732, 759; 19 U.S.C. 1321, 1505, 1624)

Section 16.12(a) is amended to read as follows:

§ 16.12 Appraisement, baggage, informal, and mail entries.

(a) All appraisement entries ready for liquidation during any 1 month may be liquidated on any convenient day during that month. The notice of entries liquidated, customs Form 4333, shall be dated with the date of posting or lodging (which shall be in the place and manner specified in § 16.2(d)), and the entries covered thereby shall be stamped "Liquidated," with the date of liquidation, which shall be the same as the date on the notice. Such stamping shall be deemed the legal evidence of liquidation.

* * * * *

(Secs. 505, 514, 46 Stat. 732, 784; 19 U.S.C. 1505, 1514)

PART 17—PROTESTS AND REAPPRAISEMENTS

Section 17.1(b) is amended to read as follows:

§ 17.1 Protest; form of.

* * * * *

(b) Each protest shall be in quadruplicate, addressed to the district director of customs (regional commissioner of customs if in Region II), and signed by the person protesting, or his agent or attorney. The protest shall show the importer number of the protestant. If the protestant is represented by an agent having power of attorney, the importer number of the agent shall also be shown. If desired by the owner or protestant, the statement "any refunds (and/or other information) with respect to the entry under protest shall be mailed to the owner in care of (name and address of agent)" may be included. This designation takes precedence over any existing designation previously authorized on customs Form 4811. Each protest shall show the address of the protestant and the address of his agent or attorney, if signed by one of these, the number and date of entry, the name of the importing carrier, the date of importation, and the date of liquidation of the entry, and it shall set forth distinctly and specifically with respect to each entry, payment, claim, decision, or refusal the reasons for the objection, stating the rate, or rates of duty claimed to be applicable and the applicable provision of law, if any, under which relief is claimed.

* * * * *

(Secs. 514, 624, 46 Stat. 734, 759; 19 U.S.C. 1514, 1624)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Section 24.4(d)(2), (e), (f), (g), and (h) are amended to read as follows:

§ 24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.

* * * * *

(d) *Use of deferred payment method.* * * *

(2) An importer who has received approval to make deferred payments retains the option of deferring or depositing the estimated tax on imported alcoholic beverages until the entry or withdrawal is presented to the cashier for payment of estimated duties. At the time the importer presents his entry or withdrawal for consumption to the cashier together with the estimated duty, he must either pay the estimated tax or indicate on the entry or withdrawal that he elects to defer the tax payment.

(e) *Tax deferment procedure.* If the importer elects to defer the tax payments, he shall enter on each copy of the entry or withdrawal the words "Tax Payment Deferred," adjacent to the amount shown on the documents as estimated taxes, before presentation to the cashier.

(f) *Billing procedure.* Each importer who has deferred tax payments on imported alcoholic beverages will be billed at the end of each tax deferral period for all taxes deferred during the period. A statement will accompany each bill listing each tax amount deferred and the related entry number. These bills must be paid in full by the last day of the next succeeding deferral period.

(g) *Restrictions on deferring tax deposits.* An importer may not on one entry, or withdrawal from warehouse for consumption, deposit part of the estimated tax and defer the balance of the tax. The estimated tax on each entry or withdrawal must be either fully paid or deferred.

(h) *Termination of deferred payment privilege.* (1) When any bill for deferred taxes in not paid within the period specified in paragraph (f) of this section, the importer shall be sent a Notice of Amount Due, customs Form 6084, and a copy shall be sent to the surety on his bond. If in the opinion of the customs officer concerned such failure to make timely payment of estimated deferred taxes warrants the withdrawal of the tax deferral privilege, he will advise the importer of the withdrawal of such privilege. In all instances of failure to pay timely the deferred taxes on alcoholic beverages withdrawn from warehouse for consumption, further withdrawals from the warehouse entry on which the tax is delinquent will be refused until payment is made of the amount delinquent.

(2) The termination in any district of the tax deferral privilege for failure to pay timely any deferred estimated tax shall be at the discretion of the customs officer concerned. Termination of the privilege for any other reason shall be subject to the approval of the Commissioner of Customs. Notice of termination of the tax deferral privilege in any district will be disseminated to all other customs districts.

(3) Renewal of the tax deferral privilege after it has been withdrawn in any district may be made only upon approval of the Commissioner of Customs.

* * * * *

(Sec. 201, 72 Stat. 1322, 1334, 1335, 68A Stat. 917; 26 U.S.C. 5007, 5054, 5061, 7805)

Part 24 is amended to add a new section designated § 24.5 reading as follows:

§ 24.5 Filing identification number.

(a) Each person, business firm, Government agency, or other organization shall file customs Form 5106, Notification of or Application for Importer's Number or Notice of Change of Name or Address, with the first dutiable formal entry which he submits or the first request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection.

(b) The number to be used when filing customs Form 5106 shall be (1) his Internal Revenue Service employer identification number, or (2) if no Internal Revenue Service employer identification number has been assigned, his social

security number. If neither an Internal Revenue Service employer identification number nor a social security number has been assigned "None" shall be inserted on the line provided for each of the above numbers and the form shall be filed in duplicate. In such case an importer number will be assigned and entered on the Form 5106 by the customs office where the entry or request is received and a copy of the form will be returned to the party. This number shall be used in all future customs transactions when an importer number is required. If an Internal Revenue Service employer identification number, a social security number, or both are obtained after an importer number has been assigned by Customs, a new Form 5106 shall not be filed, except upon request from Customs.

(c) Form 5106 contains a block in which a single suffix code may be inserted as an addition to the Internal Revenue Service employer identification number by a firm having branch office operations to permit the firm to identify transactions originating in its branch offices. A separate Form 5106 to report the specific suffix code and name and address will be required for each branch office to be identified. When an organization desires to associate a customs transaction with a specific branch office, the importer number, including the suffix, reported on Form 5106, shall be supplied on the Form 5101 or the request for services. The suffix code may be either numeric or alphabetic. The block shall be left blank if the organization has no use for it.

(d) An importer number will remain on file until 1 year from the date on which it is last used in a customs Form 5101 or a request for services. If the number is not so used for 12 months and there is no outstanding transaction to which it must be associated, it will be removed from the file and the person previously covered by the number shall complete Form 5106 again to engage in another transaction covered by paragraph (a) of this section.

(e) Customs Form 5106 may be obtained at any customhouse or from any customs office.

That part of § 24.11(a) preceding subparagraphs (1) and (2) is amended to read as follows:

§ 24.11 Increased or additional duties or taxes; notice to importer.

(a) Any increased or additional duties or taxes found due upon liquidation shall be billed to the importer of record or to the actual owner when there shall have been filed:

* * * * *

§ 24.16 [Amended]

The third sentence of § 24.16(c)(2) is amended to read as follows: "Where the security is a cash deposit, the receipt may be properly inscribed to make it serve as a combined receipt for cash deposit in lieu of bond and request for overtime services, in lieu of filing a request for overtime services on customs Form 3853."

Section 24.36(a) is amended to read as follows:

§ 24.36 Refunds of excessive duties, taxes, etc.

(a) When it is found on liquidation or reliquidation of an entry that a refund of excessive duties or taxes, or both, is due, a refund shall be prepared in the name of the person to whom the refund is due, as determined by paragraphs (b) and (c) of this section. If an authority to mail checks to someone other than the payee, customs Form 4811, is on file, the address of the payee shall be shown as in care of the address of the authorized person. If a power of attorney is on file, the address of the payee may be shown as in care of the address of such attorney, if requested. A Form 4811 received by customs will not be effective if a customs transaction requiring the use of the owner's importer number has not been made within 3 years from the date the Form 4811 was filed or if there is no unliquidated entry on file to which such number is to be associated.

* * * * *

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

PART 25—CUSTOMS BONDS

The first sentence of § 25.19 is amended to read as follows:

§ 25.19 Cancellation of erroneous charges.

When it is determined that liquidated damages assessed or paid under a bond did not in fact accrue, the charge against the bond shall be canceled by the district director of customs without regard to the amount thereof, the liquidated damages, if paid, shall be refunded by the regional commissioner of customs, and an appropriate notation shall be made on customs Form 5955 or 5955–A, if the transaction has already been recorded thereon. * * *

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

The following customs forms are abolished as the accounting system is automated in each region, in accordance with the schedule set out in effective date section.

Form No.	*Title*
1008	Bill and Receipt for Navigation Fees, Passenger Act Fee, and Tonnage Tax.
3853–A	Bill For Reimbursable Customs Overtime Services Rendered.
3854	Statement of Services Rendered (New York use only).
4619	Final Notice of Moneys Due.
5103	Receipt for Duties, Taxes, and Mitigated Forfeitures.
5107	Notice of Duty and Internal Revenue Tax Due.
5108	Notice of Duty and Internal Revenue Tax Due (New York use only).
5109	Bill of Miscellaneous Collections.
5111–A	Account for Services of Officers, and Receipt.
5111–B	Account for Services of Officers, and Receipt.
5112	Bill For Reimbursable Customs Overtime Services (New York use only).
5113	Notice and Account of Fines, Penalties, and Forfeitures, and Receipt.
5117–A	Bill and/or Receipt.
5117–B	Bill and/or Receipt.
5151–B	Record of Consumption Entries—Duty Paid on Entry.
5152	Record of Consumption Entries—Duty Paid on Entry (New York use only).
5153	Record of Goods Entered in Bond.
5167	Record and Schedule of Deposit, Trust, and Special Funds.
5187	Schedule of Collections.
5188	Schedule of Duty and Internal Revenue Tax Collections (New York use only).
5255	Depositor's Ticket.
5269	Notice of Refund.
5269–A	Record and Notice of Refund.
5269–B	Record and Notice of Refund.
6080	Daily Report of Services Rendered for Parties-In-Interest.

Effective date. Since automation will be implemented on a region-by-region basis, the amendments will become effective as each region is automated under the following schedule, except that the amendments to §§ 8.40(b) and 16.2(c) and the provisions of new § 24.5 will be effective as indicated below:

Date effective	Region No.	Headquarters
Mar. 1, 1967	III	Baltimore, Md.
Apr. 1, 1967	I	Boston, Mass.
	IV	Miami, Fla.
May 1, 1967	V	New Orleans, La.
	VI	Houston, Tex.
	VII	Los Angeles, Calif.
June 1, 1967	VIII	San Francisco, Calif.
	IX	Chicago, Ill.
July 1, 1967	II	New York, N.Y.

Sections 8.40(b) and 16.2(c), as amended, shall be effective 30 days from the date this Treasury Decision is published in the FEDERAL REGISTER. New § 24.5 shall be effective February 1, 1967, and customs Form 5106 shall be submitted on and after such date.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: January 9, 1967.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-578; Filed, Jan. 17, 1967; 8:48 a.m.]

Title 22—FOREIGN RELATIONS

Chapter II—Agency for International Development, Department of State

[A.I.D. Reg. 1]

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY A.I.D.

Miscellaneous Amendments

Part 201 of Chapter II, Title 22 (A.I.D. Regulation 1), is amended as follows:

§ 201.13 [Amended]

PARAGRAPH 1. In subdivision (ii) of paragraph (b)(1) of § 201.13 delete the words "carrying the" and insert after the words "non-U.S.-flag transportation

medium" the words "or on any U.S.-flag vessel transferred from foreign-flag to provisional U.S.-flag registry under 46 U.S.C. section 12 for carriage of."

PAR. 2. In § 201.15 add the following new paragraph (d):

§ 201.15 U.S.-flag vessel shipping requirement.

* * * * *

(d) *Privately owned U.S.-flag commercial vessels.* For purposes of this § 201.15 the term "privately owned United States flag commercial vessels" shall not include any vessel which, subsequent to September 21, 1961, shall have been either built outside the United State, rebuilt outside the United States, or documented under any foreign registry until such vessel shall have been documented under the laws of the United States for a period of 3 years.

The foregoing amendments shall become effective immediately upon publication.

Dated: January 11, 1967.

WILLIAM S. GAUD,
Administrator.

[F.R. Doc. 67-565; Filed, Jan. 17, 1967; 8:47 a.m.]

[A.I.D. Reg. 1]

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY A.I.D.

Miscellaneous Amendments

Part 201 of Chapter II, Title 22 (A.I.D. Regulation 1), is amended as follows:

PARAGRAPH 1. In § 201.01 the following new paragraph (w) is added:

§ 201.01 Definitions.

* * * * *

(w) *Certificate Concerning Commissions.* "Certificate Concerning Commissions" means the Certificate and Agreement with the Agency for International Development Concerning Commissions and Service Payments Associated with Commodity Sales Financed with Foreign Assistance Funds" (A.I.D. Form 283) which appears as Appendix C to this Part 201.

§ 201.52 [Amended]

PAR. 2. Section 201.52 is amended as follows:

a. In paragraph (a) the phrase "subparagraphs (1) through (8)" in the opening sentence is changed to read "subparagraphs (1) through (9)".

b. The following new subparagraph (9) is added to paragraph (a) to read:

(9) *Certificate Concerning Commissions.* One signed original executed by the commodity supplier of the Certificate Concerning Commissions.

c. In paragraph (c) insert a comma after the phrase "each Supplier's Certificate" and add after the comma the words "each Certificate Concerning Commissions,".

PAR. 3. In § 201.61 add the following new paragraphs (n) through (y):

§ 201.61 Meaning of terms in this subpart.

* * * * *

(n) *Commission.* "Commission" means any payment or allowance by a supplier to any person for the contribution which that person has made to securing the sale for the supplier or which that person makes to securing on a continuing basis similar sales for the supplier.

(o) *Commission employee.* "Commission employee" means any employee or officer of the supplier who has contributed to securing the sale and who is paid a salary which is directly or indirectly calculated as, or related to, a percentage of the amount of the sale.

(p) *Local currency.* "Local currency" means the currency of the cooperating country.

(q) *Local service organization.* "Local service organization" means any person who in the cooperating country performs services in connection with the A.I.D.-financed commodities.

(r) *Opening bank.* "Opening bank" means the bank which has opened the letter of credit in the cooperating country in favor of the supplier.

(s) *Regular place of business.* "Regular place of business" means a permanent business establishment such as an office, sales outlet, or other fixed place of business, but does not include a mere postal address or box number of any casual or temporary use of facilities for the sole or principal purpose of rendering a commission eligible for A.I.D. financing.

(t) *Representative of the importer.* "Representative of the importer" means any entity affiliated with the importer by ownership or management ties.

(u) *Resident of the United States.* "Resident of the United States" means any natural person who maintains a permanent household in the United States; who pays or who is subject to the income tax requirements, if any, of the State in which he maintains his household; and who is physically present for at least 60 days of the year in the United States.

(v) *Sales agent.* "Sales agent" means any person who is neither the importer nor a commission employee and who has contributed to securing the sale or to securing similar sales on a continuing basis for the supplier.

(w) *Service payment.* "Service payment" means with respect to services performed in connection with commodities financed under this Part 201 any payment or allowance by the supplier to any person, whether or not a sales agent, but not including a commission, payment or allowance for incidental or delivery services, or a salary payment to any officer or employee of the supplier.

(x) *State.* "State" means the District of Columbia, Puerto Rico, or any State, territory or possession of the United States.

(y) *U.S. firm.* "U.S. firm" means

(1) A corporation which has been organized under the laws of any State of the United States, which maintains a regular place of business in the United States, and which is at least 51 percent beneficially owned by citizens of the United States or U.S. firms or both; or

(2) A sole proprietorship in which the sole proprietor is both a citizen and resident of the United States; or

(3) A partnership or association in which the majority of partners or association members are both citizens and residents of the United States.

PAR. 4. Section 201.65 is revised to read as follows:

§ 201.65 Commissions, service payments, and discounts.

(a) *General.* This section sets forth rules which govern the eligibility of commissions, service payments, and discounts for A.I.D. financing. Paragraphs (b), (c), and (d) of this section establish general limitations, subject to special exceptions, on the eligibility for A.I.D. financing of commissions and service payments. These limitations will govern unless A.I.D. has rendered them inapplicable by express provision in the letter of commitment, request for opening of a special letter of credit, or other implementing document to the effect that paragraphs (b), (c), (d), and (e) of this § 201.65 will not apply to the particular transaction. In any case where A.I.D. does finance a commission or service payment, the specific limitations set forth in paragraph (h) of this section shall continue to apply. With respect to shipments to Vietnam, the general limitations established by paragraphs (b), (c), and (d) of this section are modified in special regard by the option established by paragraph (f) of this § 201.65 in favor of a supplier to effect a commission or service payment in local currency through a dollar bank draft procedure.

(b) *Commission to sales agents.* Unless otherwise authorized by A.I.D., a commission paid or payable by a supplier to or for the benefit of a sales agent in connection with any sale subject to this Part 201 will be eligible for A.I.D. financing only if—

(1) The sales agent performed no part of the services relating to the commission outside the United States, and the sales agent maintains a regular place of business in the United States; or

(2) The sales agent whose services relate to the commission is a U.S. firm, and any officer, employee, partner, or association member of the sales agent who has performed outside the United States any part of the services relating to the commission is both a citizen and resident of the United States.

(c) *Commission to commission employees.* Unless otherwise authorized by A.I.D., a commission paid or payable by a supplier to or for the benefit of a commission employee in connection with any sale subject to this Part 201 will be eligible for A.I.D. financing only if—

(1) The commission employee performed no part of the services relating to the commission outside the United States; or

(2) The commission employee whose services relate to the commission is both a citizen and resident of the United States.

(d) *Service payments.* Unless otherwise authorized by A.I.D., a service payment in connection with any sale subject to this Part 201 will not be eligible for A.I.D. financing for any portion thereof has been paid or is payable by the supplier to or for the benefit of a local service organization.

(e) *Payments by opening bank in local currency*—(1) *General.* Under arrangements between A.I.D. and the governments of certain cooperating countries a supplier may, if he wishes, request the opening bank on the certificate concerning commissions to pay a commission in local currency directly to the sales agent or commission employee or to make a service payment on behalf of the supplier in local currency directly to a local service organization. Under this procedure, the sales agent, commission employee, or local service organization will be paid by the opening bank with local currency funds deposited by the importer with the opening bank.

(2) *Contents of invoice.* A supplier who wishes to arrange a commission or service payment in local currency in accordance with this procedure shall show on his invoice the gross value of the shipment, all the deductions required by this § 201.65, and the net invoice amount. The draft on the U.S. bank which the supplier presents may not exceed the net amount shown on his invoice. The supplier shall also provide on his invoice—

(i) *Commission information.* An amount expressed in dollars to be paid in a local currency equivalent to the sales agent or commission employee as commission; the name and address of the sales agent or commission employee; and the dollar sales price to be financed with A.I.D. funds, exclusive of commission.

(ii) *Service payment information.* An amount expressed in dollars to be paid in a local currency equivalent to a local service organization as a service payment; the name and address of the local service organization; and the dollar sales price to be financed with A.I.D. funds, exclusive of the service payment.

(3) *Contents of sealed envelope.* The supplier shall place in a sealed envelope one signed copy of the Certificate Concerning Commissions and shall signify thereon his adherence to Certification H. The sealed envelope shall be physically attached to the suppliers invoice. The supplier shall place on the outside of the envelope the name and address of the opening bank. If the supplier does not wish to have the amount of commission or service payment made known to the importer, he may place in the sealed envelope a second set of invoices. This second set will be made out for the gross value of the shipment, and, unlike the first set submitted to the U.S. bank as a required document, will not contain a deduction for the commission or service payment which the opening bank is to pay on behalf of the supplier. If a second set of invoices is placed in the sealed envelope, the supplier shall note on each such copy the words "For the importer" and shall note on each copy of the invoice which he submits to the U.S. bank as a basis for payment the words "Only for A.I.D. and the opening bank."

(4) *Execution of Certificate Concerning Commissions.* As a requirement for receiving payment, the supplier shall execute one signed original of the Certificate Concerning Commissions. This original will be forwarded by the U.S. bank to A.I.D. By executing Certification H on the Certificate Concerning Commissions the supplier undertakes to make a commission or service payment in no other manner in connection with the sale described on the Invoice-and-Contract Abstract. Appended to Certification H is a request to the opening bank to make the requested payment in local currency on behalf of the supplier to the sales agent, commission employee, or local service organization. This request reaches the opening bank through the signed copy of the Certificate Concerning Commissions which the supplier has placed in the sealed envelope.

(5) *Payment by opening bank.* Without responsibility for itself, for A.I.D. or for the U.S. bank, the opening bank will honor the request of the supplier contained in Certification H of the Certificate Concerning Commissions by withholding from the importer the supplier's invoice for the net amount and substituting in lieu thereof the supplier's invoice for the gross amount contained in the sealed envelope. The opening bank will convert the commission or service payment which the supplier has indicated in dollars on the Certificate Concerning Commissions, on the Invoice-and-Contract Abstract, and on his invoice into a local currency equivalent (at the official rate of exchange) and will pay over the resulting sum on behalf of the supplier to the sales agent, Commission employee, or local service organization.

(6) *No multiple or split commissions.* Unless otherwise authorized by A.I.D., a supplier who pays a commission in local currency may not claim A.I.D. financing for any dollar commission in connection with the same transaction.

(f) *Payments by opening banks in local currency on shipments to Vietnam*—(1) *Special bank draft procedure.* Under arrangements between A.I.D. and the Government of Vietnam a supplier may, if he wishes, arrange for the opening bank to pay on his behalf a commission in local currency directly to the sales agent or commission employee or to make on his behalf a service payment directly to a local service organization. Under this procedure, the supplier will execute an invoice on which the commission or service payment information may appear or may be withheld at the supplier's discretion. Commission or service payment information must however appear on the Invoice-and-Contract Abstract and on the Certificate Concerning Commissions. The supplier may effect a payment to the sales agent or local service organization by placing in a sealed envelope attached to his invoice a dollar bank draft drawn on any bank and payable to the opening bank on behalf of the sales agent, commission employee, or local service organization. The supplier shall also enclose in the sealed envelope a signed, executed copy of the Certificate Concerning Commissions and shall mark on the outside of the envelope the name and address of the opening bank. The U.S. bank will forward to the opening bank the sealed envelope along with the other documents. The opening bank will remove the bank draft, convert the amount contained therein into a local currency equivalent (at the official exchange rate), and will pay over the resulting sum to the sales agent, commission employee, or local service organization whose name and address the supplier has set forth on the Invoice-and-Contract Abstract and on the Certificate Concerning Commissions. The opening bank will transfer the dollar amount representing such commission or service payment to the National Bank of Vietnam. From time to time, as A.I.D. identifies the amounts of such commission or service payments, A.I.D. will issue bills for collection requesting the Government of Vietnam to refund these dollar amounts to A.I.D.

(2) *Execution of Certificate Concerning Commissions.* A supplier who uses the procedure described in this paragraph (f) in connection with shipments to Vietnam shall execute Certification I on the Certificate Concerning Commissions. By this undertaking to A.I.D. the supplier agrees to make a commission or service payment in no other manner in connection with the sale described on the Invoice-and-Contract Abstract. The execution of Certification I will also comprise a separate request to the opening bank to make the payment in local currency on his behalf to the sales agent, commission employee, or local service organization.

(3) *No multiple or split commissions.* Unless authorized by A.I.D., a supplier who arranges for the opening bank to pay a commission in local currency in accordance with the bank draft procedure described by this paragraph (f) may not claim A.I.D. financing for any other commission in connection with the same transaction.

(g) *Required deductions from invoice amount.* To arrive at the net amount eligible for A.I.D. financing, there shall be deducted from the gross amount of the supplier's invoice submitted under paragraph (a)(2) of this section—

(1) All trade discounts to which the importer is entitled; and

(2) All commissions and service payments to the extent they are ineligible for dollar financing under this § 201.65.

(h) *Commissions and service payments to importers, purchasing agents, and third parties.* A commission or service payment in connection with any sale subject to this Part 201 shall not be eligible for A.I.D. financing if paid or payable by the supplier—

(1) To or for the benefit of the importer; or

(2) To or for the benefit of a purchasing agent or other agent or representative of an importer, even though such purchasing agent or other agent or representative may also have an agreement with a supplier to represent the supplier; or

(3) To any third party in connection with a sale by the supplier to his dealer, distributor, or established agent in the cooperating country.

(i) *Commissions and service payments attributable to A.I.D. financing.* In connection with commodities financed under this Part 201 every commission paid or payable by a supplier to or for the benefit of a sales agent or commission employee and every service payment payable by a supplier to or for the benefit of a local service organization shall be presumed conclusively to have been paid or to be paid from A.I.D. funds, whether or not such commission or service payment is reported to A.I.D. on the Supplier's Certificate or is deducted on the supplier's invoice, and shall thereby be subject to the eligibility requirements of this § 201.65. This presumption shall not apply whenever—

(1) The supplier arranges for a commission to be paid to a sales agent or commission employee or arranges for a service payment to be paid to a local service organization through the opening bank under the procedure described in paragraph (e) or (f) of this § 201.65; or

(2) The importer, on behalf of the supplier, pays in local currency a commission directly to a sales agent or commission employee or makes a service payment in local currency directly to a local service organization.

(j) *Maximum commission or service payment.* A commission or service payment shall not exceed the amount which the supplier customarily pays in connection with similar transactions or the amount which is customary in the trade.

(k) *Report of commissions and service payments.* All commissions and service payments, whether or not eligible for financing under this Part 201, made by the supplier in connection with A.I.D.-financed sales to or for the benefit of a sales agent, commission employee, the importer, or any representative of the importer shall be fully reported on the Invoice-and-Contract Abstract of the Supplier's Certificate required under § 201.52(a)(6).

(l) *Brokerage commission.* In connection with ocean freight services A.I.D. will finance a brokerage commission only if—

(1) Such commission does not exceed 2½ percent of the ocean freight charge;

(2) Such commission is payable to a firm organized under the laws of a state of the United States or to an individual who is a resident of the United States; and

(3) The names of all persons receiving such commission appear on the face of the charter party.

(m) *Address commissions.* An address commission to or for the benefit of a charterer shall be deemed a discount on the stated freight rate or freight charge which the supplier of transportation services shall deduct from the cost of transportation financed by A.I.D. If the supplier of the commodity is the charterer, he shall refund to A.I.D. any address commission received by him. If the supplier of the commodity is not the charterer, the borrower/grantee shall be responsible for making a refund to A.I.D. of any such commissions received by the charterer.

§ 201.72 [Amended]

PAR. 5. Section 201.72 is amended as follows:

a. In paragraph (b) insert a comma after the words "the Supplier's Certificate" and after the comma add the words "Certificate Concerning Commissions,".

b. In paragraph (c) insert a comma after the words "the Supplier's Certificate" and after the comma add the words "the Certificate Concerning Commissions.".

§ 201.73 [Amended]

PAR. 6. Section 201.73 is amended as follows:

a. In paragraph (a) insert a comma after the words "the Supplier's Certificate" and after the comma add the words "the Certificate Concerning Commissions,".

b. Subparagraph (1) of paragraph (b) is revised to read as follows:

(1) The Certificate and Agreement Regarding Concerted Pricing, the Certificate Concerning Commissions, or the Invoice-and-Contract Abstract in the Supplier's Certificate may be incomplete, or may indicate noncompliance with any provision of this Part 201, the letter of commitment, a request for the opening of a special letter of credit, or any other implementing document, or may be inconsistent with other documents required for reimbursement.

PAR. 7. The following new Appendix C is added to Part 201 to read as follows:

APPENDIX C—CERTIFICATE AND AGREEMENT WITH THE AGENCY FOR INTERNATIONAL DEVELOPMENT CONCERNING COMMISSION AND SERVICE PAYMENTS ASSOCIATED WITH COMMODITY SALES FINANCED WITH FOREIGN ASSISTANCE FUNDS (A.I.D. FORM 283)

Limitations on A.I.D. Financing: Paragraphs (b), (c), and (d) of § 201.65 of A.I.D. Regulation 1 (22 C.F.R. § 201.65) provide as follows:

(b) *Commission to sales agents.* Unless otherwise authorized by A.I.D., a commission paid or payable by a supplier to or for the benefit of a sales agent in connection with any sale subject to this Part 201 shall be eligible for A.I.D. financing only if—

(1) The sales agent performed no part of the services relating to the commission outside the United States, and the sales agent maintains a regular place of business in the United States; or

(2) The sales agent whose services relate to the commission is a U.S. firm, and any officer, employee, partner or association member of the sales agent who has performed outside the United States any part of the services relating to the commission is both a citizen and resident of the United States.

(c) *Commission to commission employees.* Unless otherwise authorized by A.I.D., a commission paid or payable by a supplier to or for the benefit of a commission employee in connection with any sale subject to this Part 201 shall be eligible for A.I.D. financing only if—

(1) The commission employee performed no part of the services relating to the commission outside the United States; or

(2) The commission employee whose services relate to the commission is both a citizen and resident of the United States.

(d) *Service payments.* Unless otherwise authorized by A.I.D., a service payment in connection with any sale subject to this Part 201 will not be eligible for A.I.D. financing if any portion thereof has been paid or is payable by the supplier to or for the benefit of a local service organization.

Instructions: As a condition for receiving payment from Foreign Assistance Funds, the supplier is required to check one or more of the certifications which appear as separate blocks on the reverse of this form and which apply to his transaction. The supplier shall indicate on line 4 the letter of the certification(s) to which he subscribes. If the supplier checks the block for Certifications A, H, or I, he may check no other certification. A supplier who executes Certification H will also thereby request the opening bank to pay a commission or to make a service payment in local currency in accordance with the procedure described in paragraph (e) of § 201.65 of A.I.D. Regulation 1. By executing Certification I, a supplier to Vietnam will also thereby request the opening bank to pay a commission or to make a service payment in local currency in accordance with the procedure described in paragraph (f) of § 201.65 of A.I.D. Regulation 1. As appropriate, the supplier may check one or more of Certifications B, C, D, E, F, or G.

On line 1 below the supplier shall insert the serial or other number which he has assigned to the invoice which he submits to his bank as the basis for receiving payment. On line 2 the supplier shall insert the A.I.D. identification number of the implementing document.

1. Invoice No. _____
2. A.I.D. No. _____

CERTIFICATIONS TO A.I.D. AND REQUEST TO OPENING BANK

NO COMMISSION OR SERVICE PAYMENTS

Certification A: ☐ The undersigned certifies on behalf of the supplier that in connection with the sale described on the accompanying Invoice-and-Contract Abstract no commission and no service payment has been paid or is payable either in dollars or in local currency.

DOLLAR COMMISSION TO A SALES AGENT

The undersigned certifies on behalf of the supplier that a dollar commission has been paid or is payable in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract to a sales agent; and—

Certification B: ☐ That no part of the services relating to the commission were performed by the sales agent outside the United States; and that the sales agent maintains a regular place of business in the United States; or—

Certification C: ☐ That the sales agent whose services relate to the commission is a U.S. firm; and that any officer, employee, partner, or association member of such U.S.

firm who has performed outside the United States any part of the services relating to the commission is both a citizen and resident of the United States.

DOLLAR COMMISSION TO A COMMISSION EMPLOYEE

The undersigned certifies on behalf of the supplier that a dollar commission has been paid or is payable in the amount indicated on the accompanying A.I.D. Invoice-and-Contract. Abstract to a commission employee; and—

Certification D: ☐ That no part of the services relating to the commission were performed by the commission employee outside the United States: or—

Certification E: ☐ That the commission employee who has performed outside the United States any part of the services relating to the commission is both a citizen and resident of the United States.

DOLLAR SERVICE PAYMENTS

Certification F: ☐ The undersigned certifies on behalf of the supplier that a service payment has been paid or is payable in dollars in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract and that such amount has neither been paid nor is payable to a local service organization.

LOCAL CURRENCY COMMISSION OR SERVICE PAYMENT BY IMPORTER

Certification G: ☐ The undersigned certifies on behalf of the supplier that a commission or service payment has been paid or is payable by the importer in local currency for account of the supplier directly to the sales agent, commission employee, or local service organization in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract and that the amount of the commission or service payment, expressed in dollars, has been subtracted from the invoice amount for which the supplier is claiming A.I.D. financing.

LOCAL CURRENCY COMMISSION OR SERVICE PAYMENT BY OPENING BANK

Certification H: ☐ The undersigned certifies on behalf of the supplier that a commission or service payment is payable in local currency in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract; that the amount of the commission or service payment, expressed in dollars, has been subtracted from the invoice amount for which the supplier is claiming A.I.D. financing; and that the supplier will make no commission or service payment in any other manner in connection with the transaction described on the accompanying A.I.D. Invoice-and-Contract Abstract.

Request to opening bank: The opening bank, in accordance with the procedure outlined in paragraph (e) of § 201.65 of A.I.D. Regulation 1 and in instructions issued by the central banking authority of the government of the cooperating country, is requested by the undersigned to pay on behalf of the supplier, on the basis of the information provided on line 3 of this form and on the supplier's invoice, a local currency equivalent (based upon the official exchange rate) of the amount indicated in dollars to the sales agent, commission employee, or local service organization.

3. Commission and Service Payment Information:

a. Name of:

_____sales agent_____

_____commission employee_____

_____local service organization_____

b. Address of sales agent, commission employee, or local service organization_____

c. Gross invoice amount_____

d. Commission or service payment (expressed in dollars) payable by opening bank in local currency_____

e. Net invoice amount to be paid to supplier with A.I.D. dollars (line c minus line d) _____

Certification I (for suppliers to Vietnam only): ☐ The undersigned certifies on behalf of the supplier that a commission or service payment is payable to the sales agent, commission employee, or local service organization whose name and address appear on line 3 of this form; that to discharge his obligation the supplier has secured a bank draft payable to the opening bank on behalf of the sales agent, commission employee, or local service organization and has placed such bank draft along with a signed, executed copy of this form in a sealed envelope marked on the outside with the name of the opening bank; and that the supplier, without the prior approval of A.I.D., will make no commission or service payment in any other manner in connection with the transaction described on the accompanying A.I.D. Invoice-and-Contract Abstract.

Request to opening bank: By executing this Certification I the undersigned, acting on behalf of the supplier, hereby requests the opening bank, in accordance with the procedure outlined in paragraph (f) of § 201.65 of A.I.D. Regulation 1 and in regulations issued by the National Bank of Vietnam, to convert the dollar amount covered by the attached bank draft into a local currency equivalent (based upon the official exchange rate) and to pay on behalf of the supplier the resulting sum to the sales agent, commission employee, or local service organization on the basis of the information provided on line 3 of this form.

4. The undersigned has checked block letter(s) _____ and has thereby subscribed to the contents of the certification(s) set forth therein as a condition for receiving payment from funds authorized under the Foreign Assistance Act of 1961, as amended, for the sale described on the accompanying Invoice-and-Contract Abstract. The undersigned represents that, except as certified in the block(s) which he has checked on this form, no commission or service payment either in dollars or in local currency has been paid or is payable to a sales agent, commission employee or local service organization in connection with the sale described on the accompanying Invoice-and-Contract Abstract. The undersigned acknowledges that the supplier will, upon request of the Administrator of A.I.D., promptly refund to A.I.D. in dollars any sum which the supplier has paid over in violation of any certification which he has made on this form. The supplier also acknowledges that false certification may bring about the application of penalties provided by Title 18 and Title 31 of the United States Code.

_____
(Signature)

_____
(Name of supplier (name of firm))

_____
(Position in firm)

_____
(Date)

Definitions: As used on this form, "commission" means any payment or allowance by a supplier to any person for the contribution which that person has made to securing the sale for the supplier or which that person makes to securing on a continuing basis similar sales for the supplier; "commission employee" means any employee or officer of the supplier who has contributed to securing the sale and who is paid a salary which is directly or indirectly calculated as, or related to, a percentage of the amount of the sale; "Invoice-and-Contract Abstract" means the reverse side of A.I.D. Form 282 (which appears as Appendix A to A.I.D. Regulation 1, 22 C.F.R. Part 201) or A.I.D. Form 18-24; "local currency" means the currency of the cooperating country; "local service organization" means any person who in the cooperating country performs services in connection with the A.I.D.-financed commodities; "opening bank" means the bank which has opened the letter of credit in the cooperating country in favor of the supplier; "regular place of business" means a permanent business establishment such as an office, sales outlet, or other fixed place of business, but does not include a mere postal address or box number or any casual or temporary use of facilities for the sole or principal purpose of rendering a commission eligible for A.I.D. financing; "resident of the United States" means any natural person who maintains a permanent household in the United States, who pays or who is subject to the income tax requirements, if any, of the State in which he maintains his household; and who is physically present for at least 60 days of the year in the United States; "sales agent" means any person who is neither the importer nor a commission employee and who has contributed to securing the sale or to securing similar sales on a continuing basis for the supplier; "service payment" means with respect to services performed in connection with the A.I.D.-financed commodities any payment or allowance by the supplier to any person, whether or not a sales agent, but not including a commission, payment or allowance for incidental or delivery services, or a salary payment to any officer or employee of the supplier; "State" means the District of Columbia, Puerto Rico, or any State, territory or possession of the United States; "U.S. firm" means (1) a corporation which has been organized under the laws of any State of the United States, which maintains a regular place of business in the United States, and which is at least 51 percent beneficially owned by citizens of the United States or U.S. firms or both; or (2) a sole proprietorship in which the sole proprietor is both a citizen and resident of the United States; or (3) a partnership or association in which the majority of partners or association members are both citizens and residents of the United States.

PAR. 8. The foregoing amendments and revisions shall become effective January 16, 1967, but will not be applicable to payments made to a supplier pursuant to letters of credit issued, confirmed or advised, or payment instructions received, prior to January 16, 1967.

Dated: January 13, 1967.

WILLIAM S. GAUD,
Administrator.

[F.R. Doc. 67-607; Filed, Jan. 16, 1967; 8:56 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

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

PART 1—GENERAL PROVISIONS

1. Sections 1.322–1 and 1.322–2 are revised; in § 1.322–3, paragraph (e) is revised and new paragraphs (f) and (g) are added; § 1.322–4 is revised; and new § 1.322–5 is added, as follows:

§ 1.322–1 General.

(a) *Description of procedure.* Multiyear procurement is a method for competitive contracting for known requirements for military supplies, in quantities and total cost not in excess of planned requirements for 5 years, set forth in, or in support of, the Department of Defense Five Year Force Structure and Financial Program, even though the total funds ultimately to be obligated by the contract are not available to the contracting officer at the time of entering into the contract. Under this method, contract quantities are budgeted for and financed in accordance with the program year for which each quantity is authorized. This procedure provides for solicitation of prices for supplies based either on award of the current 1-year program quantity only, or, in the alternative, on total quantities representing the first and one or more succeeding program year quantities (multiyear). Award is made on whichever of these two alternative bases reflects the lowest unit prices to the Government. If award is made on the multiyear basis, funds are obligated only for the first year's quantity, with succeeding years' contract quantities funded annually thereafter. In the event funds are not made available to support one or more succeeding year's quantities, cancellation is effected. That contractor is protected against loss resulting from cancellation by contract provisions allowing reimbursement of unrecovered nonrecurring costs included in prices for canceled items.

(b) *Policy.* (1) Multiyear procurement shall be used to the maximum extent consistent with paragraphs (c), (d), and (e) of this section. Advantages of this method include, for example:

(i) Lower costs;

(ii) Enhancement of standardization;

(iii) Reduction of administrative burden in the placement and administration of contracts;

(iv) Substantial continuity of production;

(v) Stabilization of work forces; and

(vi) Broadening the competitive base with opportunity for participation by firms not otherwise willing or able to compete for lesser quantities, particularly in cases involving high startup costs.

(2) The principal objective of the multiyear procedure is to generate realistic competition by minimizing competitive disadvantage and by increasing contractor interest in participating in procurements which involve high startup costs and make-ready expense and which also may require substantial capital investment by contractors for expansion of their facilities. Under this procedure:

(i) Nonrecurring costs are distributed over a larger number of units, thus narrowing any price advantage of a firm already in production;

(ii) There is greater assurance of depreciation recovery for capital investment; and

(iii) The competitive base is broadened with better prospects for lower prices, where firms otherwise might be unwilling or unable to compete.

(3) Another major objective is to obtain lower prices in those procurements which do not necessarily involve high startup cost but which do provide opportunity for substantial cost savings and other advantages through assurance of continuity of production over longer periods of time. In determining whether substantial cost savings and related advantages can be realized, consideration may be given to whether:

(i) Production closeout or shutdown costs, including employee severance pay, may represent a substantial cost contingency in prices quoted on only 1 year's production;

(ii) Stabilization of work forces will provide greater assurance of sustaining and improving production efficiency and product quality;

(iii) Substantial cost and quality advantage will accrue through avoidance of the possible need for establishing and "proving out" quality control techniques and procedures for a new contract each year;

(iv) Costly preproduction or pilot lot testing will be avoided;

(v) The ability to recruit and retain highly skilled personnel will be enhanced through assurance to employees of longer periods of employment than would be the case in single-year procurement, thereby avoiding costs of repeated training of new personnel;

(vi) The ability to vary production rates during peak and offpeak periods in each program year will result in production economies; and

(vii) Substantial in-house savings in maintenance and supply operations will accrue from standardization of supplies accomplished by procurement from a single source throughout the multiyear period.

(4) When the items being procured are regularly manufactured and offered for sale in substantial quantities in the commercial market, this procedure will not normally be used. However, (i) when quantities to be procured by the Government represent a substantial portion of the total market and would require special manufacturing runs of all or substantially all of the Government's requirements and (ii) significant cost savings would result from multiyear procurement, this procedure may be authorized by the Head of a Procuring Activity or his designee. In such cases the procurement file shall be fully documented with reasons why the expected substantial savings are not obtainable under annual procurements.

(5) The multiyear procurement procedure is to be used only in procurements in which realistic competition is anticipated.

(c) *Application.* Unless overriding disadvantages are evident, the multiyear procurement method should be used when all of the following criteria are present:

(1) Reduced unit prices can reasonably be anticipated over annual buys by reason of continuity of production or elimination of repetitive substantial startup costs, including such costs as preproduction engineering, special tooling, plant rearrangement, initial rework, initial spoilage, and pilot runs;

(2) There is reasonable expectation that effective competition can be obtained;

(3) There are known requirements for the quantities to be purchased under the multiyear contract; and

(4) The design and specifications of the item are not expected to change to an extent that would involve a major impact on contract price.

(d) *Limitations.* Multiyear procurement shall not be used:

(1) When funds covering the procurement are limited by statute for obligation during the fiscal year in which the contract is executed;

(2) For quantities or total costs in excess of the planned requirements for 5 years set forth in, or in support of, the Department of Defense Five Year Force Structure and Financial Program; or

(3) When any one of the criteria set forth in paragraph (c) of this section is not present.

(e) *Set-asides.* Total small business set-asides are compatible with the multiyear method of procurement and may be used when both procedures are appropriate. Partial set-aside procedures (both small business and labor surplus area) are generally not compatible with the multiyear procedure when high startup costs are involved because of the potential duplication of such costs by the set-aside contractor and the non-set-aside contractor. Nevertheless, when the multiyear procedure is based not on high startup costs but on the opportunity for cost savings through assurance of continuity of production over longer periods of time, partial set-aside procedures are compatible with the multiyear procedure. Furthermore, even where high startup costs are involved, use of partial set-aside procedures together with the multiyear procedure may be appropriate in exceptional circumstances, such as where the criteria for

partial set-asides are met under Subparts G and H of this part, and it is likely that broader or more realistic competition will result from a combination of both procedures, and this broader competition is likely to more than offset any duplication of startup costs.

§ 1.322–2 Procedure.

(a) Formal advertising, including two-step formal advertising, is the preferred method for use in multiyear procurement. In cases where the period of production is such that a contingency for labor and material costs is likely otherwise to be included in the multiyear contract price, the contracting officer should normally use a provision for price escalation.

(b) Solicitations shall include:

(1) A statement of the requirements, separately identified by bid or proposal item in the schedule, for—

(i) The first program year; and

(ii) The multiyear procurement including the quantities for each program year thereunder;

(2) When previous production procurements of the item have been made with competition—

(i) A provision that a price may be submitted for the total requirements of the first program year, or for the total multi-year requirements, or both, or

(ii) When competition in future procurements of the items would be impracticable after award of a contract covering the first program year quantity alone and the Head of a Procuring Activity determines that, in order to eliminate the possibility of a first program year "buy-in," these provisions will be in the best interests of the Government—provisions that a price may be submitted only for the total multiyear quantity and that prices on a single-year basis will not be considered for any purpose;

(3) When there has been no previous competition for the production of the item—

(i) (*a*) Provisions that a price must be submitted for the total requirements of the first program year, that a price may be submitted for the total multiyear quantity, and that a bid or offer on the multiyear quantity only will be considered nonresponsive, and

(*b*) A provision that if only one responsive bid or offer on the multiyear requirements is received from a responsible bidder or offeror, the Government reserves the right to disregard the bid or offer on the multiyear quantity and to make an award only for the first program year requirements; or

(ii) When competition in future procurements of the items would be impractical after award of a contract covering the first program year quantity alone and the Head of a Procuring Activity determines that, in order to eliminate the possibility of a first program year "buy-in," these provisions will be in the best interests of the Government—

(*a*) Provisions that a price may be submitted only for the total multiyear quantity and that prices on a single-year basis will not be considered for any purpose, and

(*b*) A provision that if only one responsive bid or offer on the multiyear requirements is received from a responsible bidder or offeror, the Government reserves the right to cancel the solicitation and resolicit on a single-year basis by whatever procedures are then appropriate;

(4) A provision that the unit price of each item in the multiyear requirement shall be the same for all program years included therein;

(5) Criteria for comparing the lowest evaluated submission on the first program year's requirement against the lowest evaluated submission on the multiyear requirements (see § 1.322–3(b));

(6) A provision setting forth a separate cancellation ceiling (on a percentage basis) applicable to each program year subject to cancellation (see paragraph (c) of this section); and

(7) A prominently placed provision directing attention to the multiyear features of the solicitation, and to—

(i) The Limitation of Price and Contractor Obligations clause (see § 1.322–5(a)) which limits the payment obligation of the Government to the requirements of the first program year and to those of such succeeding program years as may be funded by the Government (see § 1.322–5(b));

(ii) The Cancellation of Items clause (see § 1.322–5(b)) which allows the Government to cancel, by a specified date or within a specified period, all remaining program years; and

(iii) The cancellation ceiling set forth in the schedule.

(c) The term "cancellation" as used in multiyear procurement refers only to the cancellation of the total requirements of all remaining program years. Such cancellation results from (1) notification from the contracting officer to the contractor of nonavailability of funds for contract performance for any subsequent program year, or (2) failure of the contracting officer to notify the contractor that funds have been made available for performance of the program year requirement for the succeeding program year. For each program year except the last, the contracting officer shall establish a cancellation ceiling applicable to the remaining program years which are subject to cancellation. Cancellation ceilings will be lower for each succeeding program year in that such ceilings must exclude all amounts allocable to items included in the prior program year requirements. Such ceilings shall be expressed in the Schedule in percentages of the total multiyear contract price and shall apply to all bidders alike. In determining cancellation ceilings, the contracting officer must estimate reasonable preproduction and other nonrecurring costs to be incurred by the prime or subcontractor which would be applicable to and which normally would be amortized in all items to be furnished under the multiyear requirements. They include such costs as plant rearrangement, special tooling, preproduction engineering, initial rework, initial spoilage, and pilot runs. There shall not be taken into account any cost of labor or materials, or other expenses (except as indicated above) which might be incurred for production of the items subject to cancellation for each program year. The total estimate must then be compared with the best estimate of the procurement cost to arrive at a reasonable percentage figure. Cancellation dates for each program year's requirements shall be established with due regard for production leadtime and the date by which funding therefor can reasonably be accomplished.

(d) Original cancellation ceilings may be revised from information developed after issuance of a solicitation discloses that such ceilings are not realistic. In the case of formal advertising, such changes shall be by amendment of the invitation for bids prior to bid opening. In two-step formal advertising, discussion conducted during the first step may indicate the need for revised ceilings in step two. Negotiations with offerors in a negotiated procurement may provide information requiring a change in cancellation ceilings for all offerors, prior to final negotiation and contract award. In order to assure that all interested sources of supply are thoroughly aware of how multiyear procurement is accomplished, use of presolicitation or prebid conferences may be advisable. During such conferences the contracting officer should ascertain whether escalation provisions are appropriate (see § 2.104–3) and whether the proposed cancellation ceiling is adequate.

(e) For each program year requirement, funds shall be obligated to cover the quantity of items to be delivered thereunder. In addition, contingent liabilities for cancellation charges shall be carried as outstanding commitments in accordance with DOD Comptroller regulations governing the recording and reporting of commitments as implemented by the Military Departments.

(f) In the event of a cancellation the contractor is entitled to payment as consideration therefor in accordance with the terms of the Cancellation of Items clause (see § 1.322–5(b)) in an amount not to exceed the cancellation ceiling.

(g) The Schedule shall contain a provision limiting the payment obligation of the Government to a monetary amount there described as being available for contract performance. Such amount for the first program year requirements shall be inserted by the contracting officer upon award of the contract and shall be modified for successive program years upon availability of funds for such years (see § 1.322–5(a)).

(h) In the event the contract is terminated for the convenience of the Government in whole, including items subject to cancellation, the Government's obligation shall not exceed the amount set forth in the Schedule as available for contract performance, plus the applicable amount established as the cancellation ceiling.

§ 1.322–3 Evaluation.

* * * * *

(e) When the solicitation requires the submission of prices on the first program

year requirements in accordance with § 1.322–2(b)(3)(i), bids or offers which submit prices on the multiyear requirements only shall be rejected as nonresponsive.

(f) When the solicitation provides for submission of prices only for the total multiyear quantity in accordance with § 1.322–2(b)(3)(ii), submission of prices for the single-year quantity will be disregarded for any purpose but will not render the bid or offer nonresponsive as to any alternate multiyear submission by the same bidder or offeror.

(g) To determine the lowest evaluated unit price, compare the lowest evaluated bid or offer on the first program year alternative against the lowest evaluated bid or offer on the multiyear alternative as follows:

(1) Multiply the evaluated unit price for each item of the lowest evaluated bid or offer on the first program year alternative times the total number of units of that item required by the multiyear alternative, and then

(2) Take the sum of these products for all the items, plus the dollar amount of any administrative costs of the Government which are to be used in the evaluation, and finally

(3) Compare this result against the total evaluated price of the lowest bid or offer on the multiyear alternative.

§ 1.322–4 Award.

(a) Except as provided in paragraphs (b) and (c) of this section award shall be made on the basis of the lowest evaluated unit price determined in accordance with § 1.322–3, whether that price is on a single-year basis or a multiyear basis.

(b) If only one responsive bid or offer is received on the multiyear requirements from a responsible bidder or offeror, then award shall be made as follows:

(1) If the solicitation gave the bidder or offeror the choice of submitting prices on a single-year basis or multiyear basis or both, then award shall be made in accordance with paragraph (a) of this section;

(2) If the solicitation required the submission of prices on the first program year requirements in accordance with § 1.322–2(b)(3)(i), award shall be made to the lowest evaluated bidder or offeror on the single-year basis, even though the multiyear price submission, except that if the multiyear price offers distinct advantages to the Government a multiyear award may be made with the advance approval of the Head of a Procuring Activity;

(3) If the solicitation restricted the submission of prices to the multiyear basis only, the solicitation shall be canceled and a new solicitation issued by whatever procedures are then appropriate, except that if the multiyear price offers distinct advantages to the Government a multiyear award may be made with the advance approval of the Head of a Procuring Activity.

(c) In no event shall award be made at an unreasonable price (see §§ 2.404–1 and 3.801).

§ 1.322–5 Clauses.

The following clauses shall be included in all contracts under the multiyear procurement method.

(a) *Limitation of price and contractor obligations.*

LIMITATION OF PRICE AND CONTRACTOR OBLIGATIONS (OCTOBER 1966)

(a) This clause applies only in the event this contract is awarded on the alternative basis for award described in the Schedule as "Multiyear Procurement".

(b) Funds are available for performance of this contract in the amount specifically described in the Schedule, as available for contract performance. The amount of funds so described at the time of award is not considered sufficient for the contract performance required by and described in the Schedule for any Program Year other than the First Program Year. Upon availability to the Contracting Officer of additional funds sufficient for performance of the full requirements for the next succeeding Program Year, the Contracting Officer shall, not later than the date specified in the Schedule, unless a later date is agreed to by the parties, so notify the Contractor in writing and the amount of funds described in the Schedule as available for contract performance shall be modified accordingly. This procedure shall apply for each successive Program Year.

(c) The Government is not obligated to the Contractor for contract performance in any monetary amount in excess of that described in the Schedule or modifications thereto, as available for contract performance.

(d) The Contractor is not obligated to incur costs for the performance required for any Program Year after the first unless and until he has been notified in writing by the Contracting Officer of an increase in availability of funds in accordance with paragraph (b) of this clause. If so notified, the Contractor's obligation shall be increased only to the extent contract performance is required for the additional Program Year for which funds have been made available.

(e) In the event of termination pursuant to the "Termination for Convenience of the Government" clause of this contract, the terms "total contract price" as used in that clause refers to the amount available for performance of this contract, as provided for in this clause, plus the applicable amount established as the cancellation ceiling, and the term "work under the contract" as used in that clause refers to the work under Program Year requirements for which funds have been made available. In the event of termination for default, the Government's rights under this contract shall apply to the entire multiyear requirements.

(f) Notification to the Contractor of an increase or decrease in the funds available for performance of this contract as a result of a clause other than this clause (e.g., exercise of an option for increased quantities or the "Changes" clause) shall not constitute the notification contemplated by paragraph (b) of this clause.

(b) *Cancellation of Items.*

CANCELLATION OF ITEMS (OCTOBER 1966)

(a) This clause applies only in the event this contract is awarded on the alternative basis for award described in the Schedule as "Multiyear Procurement".

(b) As used herein, the term "cancellation" means that the Government is canceling, pursuant to this clause, its Program Year requirements for items as set forth in the Schedule for all Program Years subsequent to that in which notice of cancellation is provided. Such cancellation shall occur only if, by the date or within the time period specified in the Schedule, or such further time as may be agreed to, the Contracting Officer (i) notifies the Contractor that funds will not be available for contract performance for any subsequent Program Year; or (ii) fails to notify the Contractor that funds have been made available for performance of the Program Year requirement for the succeeding Program Year.

(c) Except for cancellation pursuant to this clause or for termination pursuant to the "Default" clause, any reduction by the Contracting Officer in the quantities called for under this contract shall be considered a termination in accordance with the "Termination for Convenience of the Government" clause of this contract.

(d) In the event of cancellation pursuant to this clause, the Contractor will be paid, as consideration therefor, a cancellation charge not to exceed the cancellation ceiling described and separately set forth in the Schedule as being applicable at the time of cancellation.

(e) The cancellation charge is intended to cover only expenses reasonably necessary for production which would have been equitably amortized in the unit prices for the entire quantity of the Multiyear Procurement, but which, because of the cancellation, are therefore not so amortized. The cancellation charge shall be computed and claim therefor made as would be applicable under the "Termination for Convenience of the Government" clause of this contract. The claim may include reasonable preproduction and other nonrecurring costs, applicable to and which normally would be amortized in all items to be furnished under the multiyear requirements, such as plant rearrangement, special tooling, preproduction engineering, initial rework, initial spoilage, and pilot runs. The claim shall not include any amount;

(i) For labor, materials, or other expenses incurred for production of the canceled items;

(ii) For any item or cost for which payment has already been made to the Contractor; or

(iii) For anticipated profit on the canceled items, or on the costs included in the cancellation charge.

Where options are otherwise authorized, multiyear contracts may include an appropriate "Option to Increase Quantities" clause in which the period for exercise of the option is limited to the date set forth in the contract schedule for notifying the contractor that funds are available for the requirements of the next succeeding program year. If such an option is included, the following paragraph (f) should be added to the clause set forth above.

(f) Any quantities added to the original contract quantities through exercise of the Government option in the "Option to Increase Quantities" clause of this contract shall be subtracted from what would otherwise be considered the quantity canceled for the purpose of computing allowable cancellation charges.

2. In § 1.323, paragraph (b) is revised and new paragraph (c) is added; §§ 1.905–4(b) and 1.1604(c) are revised; and a new Subpart T is added to this part, as follows:

§ 1.323 Procurement of natural rubber for aircraft tires, tubes, tire recapping, and recapping materials.

* * * * *

(b) The following clause shall be inserted in contracts for aircraft tires, tubes, tire recapping (unless the re-

capping materials are Government furnished), and recapping materials, and in contracts for aircraft under which the contractor is to furnish tires or tubes.

PURCHASE OF NATURAL RUBBER (OCTOBER 1966)

(a) Except as provided in paragraph (b) below, the Contractor shall purchase from the General Services Administration, either directly or through a dealer, or otherwise cause to be purchased, during the life of this contract, a quantity of natural rubber that is equivalent in value (GSA selling price) to 50 percent of the total line item prices for tires, tubes, tire recapping, or recapping materials established under the contract. Each order for rubber placed with the General Services Administration pursuant to this clause shall state that it has been placed in accordance with the provisions of this clause, shall identify this contract by number and the name of the issuing activity and shall be sent to:

Manager, Rubber Project, General Services Administration, Room 6042, GSA Building, 18th and F Streets NW., Washington, D.C. 20025.

Rubber purchased pursuant to this clause may be used in any manner the Contractor desires and need not be earmarked in any way after delivery to the Contractor, nor physically incorporated in the items to be delivered, provided the specifications are met.

(b) To the extent this contract does not specify prices for line items of the types listed in paragraph (a), and the Contractor places subcontracts for such items, he is not required to purchase rubber from the General Services Administration. However, he agrees to incorporate in any such subcontract the same terms and conditions set forth in this clause including this paragraph (b). In such cases, the quantity of rubber to be purchased or caused to be purchased by the subcontractor from GSA shall be calculated on the basis of an equivalent in dollar value to 50 percent of the total line item prices established in the subcontract for such items. The Contractor shall forward one copy of each such subcontract, referencing the prime contract number and the issuing activity, to the General Services Administration of the above address.

(c) Copies or pertinent abstracts of all contracts and contract modifications affecting rubber quantities will be forwarded by the purchasing activity to the General Services Administration at the address specified in the contract clause.

§ 1.905–4 Preaward surveys.

* * * * *

(b) *Circumstances under which performed.* A preaward survey shall be required when the information available to the purchasing office is not sufficient to enable the contracting officer to make a determination regarding the responsibility of a prospective contractor (but see paragraph (c) of this section). The contracting officer shall request a preaward survey on Preaward Survey of Prospective Contractor (DD Form 1524) (see F–200.1524) in the detail commensurate with the dollar value and complexity of the procurement. In requesting a preaward survey, the contracting officer shall call to the attention of the contract administration office any factors which should receive special emphasis. The factors selected by the contracting officer shall be applicable to all firms responding to the solicitation and shall be considered in all preaward surveys performed for the same solicitation. In the absence of specific instructions from the purchasing office, the scope of the preaward survey shall be determined by the contract administration office and a normal time frame of 7 working days after receipt of request shall be allowed for conducting the survey and submitting the report, recognizing that in unusual circumstances exception from the normal time frame may be requested.

* * * * *

§ 1.1604 Processing novation agreements and change of name agreements.

* * * * *

(c) When more than one Department has outstanding contracts with the contractor or contractors seeking a novation or change of name agreement, a single agreement covering all such contracts shall be executed by the Department having the largest unsettled (unbilled plus billed but unpaid) dollar balance with the contractor or contractors. Such agreements shall be executed by a duly authorized official of the appropriate office listed herein:

Department of the Army, Hq., U.S. Army Materiel Command, Attn.: AMCGC–P, Washington, D.C. 20315.
Department of the Navy, Chief of Naval Material, Attn.: MAT 024, Washington, D.C. 20360.
Department of the Air Force, Hq., U.S. Air Force Systems Command, Attn.: SCKPR, Washington, D.C. 20331.
Defense Supply Agency, Attn.: DSAH–PPO, Cameron Station, Alexandria, Va. 22314.
Defense Communications Agency, Attn.: Code 260, Washington, D.C. 20305.
Director, Defense Atomic Support Agency, Attn.: LGCM, Washington, D.C. 20301.

* * * * *

Subpart T—Limitation of Cost or Funds Under Cost Reimbursement Type Contracts

Sec. 1.2000 Scope of subpart.
Sec. 1.2001 Limitation of cost or funds.

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

§ 1.2000 Scope of subpart.

This subpart sets forth information for, and the responsibilities of, the contracting officer with respect to the funding of cost-reimbursement type contracts. It includes material pertaining to:

(a) Availability of funds;

(b) Issuance of a change order, a direction to correct or replace defective items or work, or a termination notice; and

(c) Action to be taken when the limit of the funds allocated or the estimated cost is being approached.

§ 1.2001 Limitation of cost or funds.

(a) When using a cost-reimbursement type contract, the contracting officer will assure that sufficient funds are available at all times to cover the estimated cost and fee (if any) if the contract is fully funded, or the amount allotted and the corresponding increment of fee (if any) if the contract is incrementally funded.

(b) Under a cost-reimbursement type contract, the contracting officer may, without immediately increasing the funds available for the contract, issue a change order, a direction to correct or replace defective items or work or a termination notice.

NOTE.—The Contractor is obligated to comply with such order, direction or notice as long as funds are available within the estimated cost or amount allotted to the contract. However, the Contractor is not obligated to proceed further once the estimated cost or amount allotted is reached. Therefore, the Contracting Officer is cautioned to have funds available, if possible, to assure compliance with the directed action.

If it is necessary to increase the estimated cost or amount allotted to a contract to cover termination expenses, the contracting officer may direct that such increase is solely for the purpose of funding termination expenses.

(c) The contracting officer shall take prompt and formal action as soon as he is notified or becomes aware that a contractor is approaching the limits of the funds allotted to a contract or is approaching the estimated cost of the contract (see §§ 7.203–3 and 7.402–2). He shall immediately obtain from the proper activity funding and programing information pertinent to the continuation of the contract. The contracting officer shall, in addition, promptly notify the contractor in writing that:

(1) Additional funds have been allocated, or the estimated cost increased, in a specified amount;

(2) The contract is not to be further funded;

(3) The contract is to be terminated; or

(4) The Government is considering whether additional funds will be allocated or the estimated cost increased, and that the contractor is entitled by the terms of his contract to stop work when the cost or funding limit has been reached unless and until further funds are allocated or the estimated cost increased, and that any work beyond the cost or funding limit is at his own risk.

All Government personnel should note that encouraging a contractor to continue work in the absence of funds may result in a violation of Revised Statutes section 3679 (31 U.S.C. 665), and may subject the violator to criminal penalties.

PART 2—PROCUREMENT BY FORMAL ADVERTISING

3. In § 2.201, the introductory text and paragraphs (a)(8), (12) and (31) and (b)(21) are revised, as follows:

§ 2.201 Preparation of invitation for bids.

Forms used in inviting bids are prescribed in Subparts A and D, Part 16 of this chapter. Invitation for bids shall contain the applicable information described in paragraphs (a), (b), and (c) of this section and any other information

required for a particular procurement. Pen and ink entries, deletions, or alterations shall not be made in an invitation for bids after it has been prepared for distribution. If a change is necessary after reproduction of the invitation for bids, the DD Form 1260 (Amendment to Invitation for Bids) shall be used (see § 16.101 of this chapter).

(a) * * *

(8) The time of delivery or performance (see §§ 1.305 and 18.105 of this chapter).

* * * * *

(12) Bid guarantee, performance bond, and payment bond requirements, if any (see Subpart A, Part 10 of this chapter and § 16.401–2(c)(2)(i) of this chapter). If a bid bond or other form of bid guarantee is required, the solicitation shall include the provisions required by §10.102–4 of this chapter.

* * * * *

(31) If the contract is to involve construction work (subject to the Davis-Bacon Act) at Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area, the Employee Compensation clause and Table of Employee Compensation (see § 18.703–2 of this chapter).

* * * * *

(b) * * *

(21) If the contract is for mortuary services, the provision required by § 22.502 of this chapter.

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

4. In § 3.501(b), subparagraphs (16), (43), and (58) are revised; and § 3.808–6 is revised, as follows:

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

* * * * *

(b) * * *

(16) Any applicable wage determinations of the Secretary of Labor (for construction contracts, see Subpart G, Part 18 of this chapter);

* * * * *

(43) If the contract is to involve construction work (subject to the Davis-Bacon Act) at Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area, the Employee Compensation clause and Table of Employee Compensation (see § 18.703–2 of this chapter);

* * * * *

(58) If the contract is for mortuary services, the provision required by § 22.502 of this chapter;

* * * * *

§ 3.808–6 Special profit consideration.

(a) Contractors who develop military items without Government assistance are entitled to special profit consideration on those items, as a special profit factor to be considered within the weighted guidelines in arriving at a profit objective. One to four percent of recognized cost is established as the normal range of value for this profit factor. The criteria for selection of the specific percentage shall be the importance of the development in furthering defense purposes, the demonstrable initiative in determining the need and application of the development, the extent of the contractor's cost risk, and whether the development cost was recovered directly or indirectly from Government sources.

(b) Contractors actively engaged in the development of foreign markets for military items frequently exert sales efforts and assume risks beyond the normal risks recognized in the weighted guidelines method. In such cases, in connection with procurements for military assistance sales, it is appropriate to recognize outstanding sales effort in the foreign markets and attendant risks by a special profit factor to be considered within the weighted guidelines in arriving at a profit objective. One to four percent of recognized costs is established as the normal range of value for this profit factor. The criteria for selection of the specific percentage shall be such factors as the demonstrable initiative of the contractor in furthering such sales, the responsibility assumed by the contractor for the product after delivery and other attendant risks.

PART 4—SPECIAL TYPES AND METHODS OF PROCUREMENT

5. Section 4.214–4(c) is revised, and Subparts H and I are revoked, as follows:

§ 4.214–4 Transfer of title to equipment to nonprofit educational or research institutions.

* * * * *

(c) *Transfer of Title.* (1) Contracts with nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research, shall provide, or shall be amended to provide, for transfer to contractors of title to each item of equipment having an acquisition cost of less than $200 and purchased with funds available for grants or contracts for the conduct of basic or applied research. With respect to such equipment already in possession of such contractors, the contracting officer shall vest in the contractor title to all such low cost equipment at the time of amendment of the appropriate contract or as soon as practicable thereafter. With respect to such equipment to be acquired by the contractor for the account of the Government, the contracting officer shall vest in the contractor title to such equipment upon receiving from the contractor a written receipt pursuant to item 305 in § 30.3 of this chapter. The requirements of this paragraph are not applicable to transfers of title that are precluded by controls governing the equipment involved.

(2) With respect to equipment having an acquisition cost of $200 or more, contracts with such institutions and organizations may provide, or may be amended to provide, that the contracting officer may transfer title to the contractor. To the maximum extent possible, transfer of title should be effected at the beginning of the contract or upon acquisition of the equipment, but such transfer may be effected at the beginning, during the course of, or at the end of a contract provided:

(i) The equipment was purchased with grant or contract funds allocated for basic or applied scientific research;

(ii) (*a*) Either the retention of title in the Government would create an administrative burden not warranted by the value of the equipment, or the keeping of inventory and records by the contractor would become prohibitively complicated or expensive, or

(*b*) It would be impractical or uneconomical to remove the equipment from the contractor's plant;

(iii) The transfer of title will further the scientific research objectives of the Department concerned; and

(iv) The transfer of title is not precluded by controls governing the equipment involved.

(3) The contracting officer may, when provision is made therefor by contract, vest in the contractor title to any item of equipment having an acquisition cost of from $200 to $3,000, inclusive, following his written determination that the criteria in subparagraph (2) of this paragraph had been met. When the acquisition cost of an item of equipment is in excess of $3,000, the contracting officer may transfer title to the contractor upon the written approval of the head of the procuring activity or his designee. Such approval shall be given on the basis of the criteria in subparagraph (2) of this paragraph and only after considering whether transfer of title is consistent with any known need of the Department concerned. (No formal screening is required.) In addition, for items of equipment having an acquisition cost in excess of $25,000, the approval of designated representatives[1] of the Departments must be secured. Such approval shall be given within sixty (60) days, but only after a reasonable check, commensurate with the value of the item involved, has established that there is no known requirement for the item within the respective Departments.

(4) Where title to equipment is vested pursuant to subparagraphs (1) or (2) of this paragraph, the contractor shall be without further obligation to the Government with respect to such equipment, except that the contractor must agree, as a condition to taking title, that no charge will be made to the Government for any depreciation, amortization, or use charge with respect to such equipment under

[1] In the case of the Department of the Army, the designee is Army Research Office, Office, Chief of Research and Development, Washington, D.C. 20310.

In the case of the Department of the Navy, the designee is Chief of Naval Research, Office of Naval Research, Washington, D.C. 20390.

In the case of the Department of the Air Force, the designee is Commander, Office of Aerospace Research, Washington, D.C. 20333.

In the case of the Defense Supply Agency, the designee is Executive Director for Supply Operations, Defense Supply Agency, Cameron Station, Alexandria, Va. 22314.

any existing or future Government contract.

* * * * *

Subpart H—Stevedoring Contracts [Revoked]

Subpart I—Procurement of Mortuary Services [Revoked]

PART 5—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

6. In § 5.101, the last sentence of paragraph (a) is revised; and Subparts K and L are revised, as follows:

§ 5.101 Federal Supply Schedule Contracts.

(a) *General.* * * * Requests for them should be submitted on GSA Form 457A, which is also available from regional offices.

* * * * *

Subpart K—Coordinated Procurement

Sec.

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

§ 5.1100 Applicability.

Although the Department of Defense Coordinated Procurement Program includes items assigned to one or more of the Departments for integrated materiel management, the procedures set forth in this subpart apply to items assigned for purchase responsibility only, and not to those in the integrated materiel management program. The latter items will be obtained in accordance with current supply procedures.

§ 5.1101 Definitions.

As used in this subpart, the following terms have the meanings set forth below.

§ 5.1101–1 Coordinated procurements.

Coordinated procurement refers to (a) the procurement by procurement activities, within the 48 contiguous States and the District of Columbia, of certain supplies to satisfy the requirement (including overseas requirements) of all Departments in compliance with assignment responsibilities set forth in Subpart L of this part; (b) single department procurement assignments made by the respective Unified Commanders in Alaska, Hawaii, and Outside the United States, regardless of funds utilized; and (c) procurement agreements made in accordance with § 5.1118. It does not include procurements made in Alaska, Hawaii, or outside the United States which do not fall within paragraphs (a) or (b) of this section.

§ 5.1101–2 Single department procurement.

Single department procurement refers to the procurement of supplies pursuant to assignments of procurement responsibility made by the Secretary of Defense, whereby one Department procures certain supplies to satisfy the requirements of all Departments, including procurement responsibilities assigned under Department of Defense integrated supply management assignments.

§ 5.1101–3 Requiring department.

Requiring department refers to the department originating a requisition or purchase request for supplies.

§ 5.1101–4 Procuring department.

Procuring department refers to the Department or agency which is assigned the procurement responsibility for the supplies.

§ 5.1101–5 Purchase request.

Purchase request refers to the following types of authorized purchase requisitions:

(a) Military Interdepartmental Purchase Request (MIPR) DD Form 448); and

(b) Requisition for Coal, Coke, and Briquettes (DD Form 416).

§ 5.1101–6 Acceptance of MIPR.

Acceptance of MIPR refers to DD Form 448–2 (Acceptance of MIPR) (see § 16.602 of this chapter) executed by a procuring department as notice to the requiring department that a MIPR has been received and accepted for procurement action.

§ 5.1101–7 Consolidated-reimbursable procurement (Category I method of funding).

Consolidated-reimbursable procurement (Category I method of funding) refers to the procurement of supplies for a requiring department on a contract funded by the procuring department, without separate identification of the items or separate citation of funds of the requiring department, with subsequent delivery to and reimbursement by the requiring department.

§ 5.1101–8 Direct citation procurement (Category II method of funding).

Direct citation procurement (Category II method of funding) refers to a procurement having separate identification of the items and citing the funds of the requiring department, and may be accomplished by combining the requirements of two or more Departments under one contract with separate schedules showing the quantities, prices, dollar amounts, and citation of funds of each requiring department, or by placing separate contracts for each department.

§ 5.1101–9 Interagency assignments.

Interagency assignments refers to procurement responsibility assigned to an agency outside the Department of Defense, e.g., commodities assigned to General Services Administration as set forth in § 5.1201–7.

§ 5.1101–10 Military service-managed items.

Military service-managed items refers to items which are within Federal Supply Classes assigned to the Defense Supply Agency but which are retained for supply management by the Requiring Department.

§ 5.1101–11 Integrated materiel management items.

Integrated materiel management items refers to items assigned to one Department or agency for the entire Department of Defense for supply management, cataloging, requirements determination, procurement, distribution, overhaul and disposal of materiel.

§ 5.1102 Responsibilities under single department procurement.

The procuring department is generally responsible for the following under single department procurement:

(a) Operational phases of procurement planning (phasing the submission of requirements, consolidating or dividing requirements, analyzing the market, and determining patterns for the phased placement of orders in such a manner as to assure meeting the needs of the requiring departments at the lowest possible price to the Government, and at the same time avoiding unnecessary peaks and valleys of production);

(b) Purchasing;

(c) Performing or arranging through a contract administration office for contract administration, including followup and expediting of inspection and transportation; and

(d) Acquisition of licenses under patents or other proprietary rights covering the subject matter of the procurement and the settlement of patent infringement claims arising out of the procurement; approval of the departments whose funds are to be charged for acquisition of licenses or settlement of claims shall be obtained.

§ 5.1103 General principles governing implementation of procurement assignments.

§ 5.1103–1 Standard format-development and promulgation of implementing procedures.

Implementation of procurement assignments shall be in accordance with Enclosure 1 of Department of Defense Instruction 4115.1, dated March 9, 1966 (and amendments thereof), subject: Department of Defense Coordinated Procurement Program—Commodity Assignments.

§ 5.1103–2 Relationship between research and development and single procurement.

Items are not subject to procurement assignment until they have reached the production stage.

§ 5.1103–3 Small dollar value purchases.

Requirement of small dollar value shall be procured in accordance with the provisions of the approved implementing procedures covering the particular assignment. Such implementing procedures shall normally provide a small dollar limitation of $2,500; however, in special situations, the limit may vary depending upon the commodity area and may be expressed either in a higher or lower dollar value, by tonnage, less-than-carload lot quantities, or other units, as appropriate. Such implementing procedures shall clearly state that requirements of a value or quantity less than the prescribed limitations shall, wherever feasible, be procured by the requiring department. A MIPR for nonmilitary type items of a value or quantity less than the prescribed limitations shall contain a notation that procurement by the requiring department was not considered to be feasible. A MIPR for a military type item need not contain such a notation. The procuring department shall not return a MIPR submitted in accordance with the foregoing, but shall procure such items.

§ 5.1103–4 Emergency.

In case of emergency, where the exigencies of the situation will not permit of the delay incident to following the normal channels of single department procurement, purchases may be made without the prior authorization of the procuring department. When an emergency purchase is made, one copy of the contractual instrument, bearing or accompanied by a statement of the emergency, shall be transmitted promptly to the purchasing activity of the procuring department (the single department procurement assignee). The provisions of this section will not normally be used for stock replenishment. These emergency procedures shall not be invoked for the purchase of supplies assigned pursuant to § 5.1101–11.

§ 5.1103–5 Department of Defense manufacturing establishment.

When procurement assignments have been made for items required by manufacturing establishments of the Military Departments, these items shall be obtained through the facilities of the procuring department unless such action will unduly hinder or delay production. When procurements are made other than through the procuring department, one copy of the contractual instrument bearing or accompanied by a statement of the circumstances necessitating such procurement shall be transmitted promptly to the purchasing activity of the procuring department. This section is not applicable when purchases are made pursuant to § 5.1103–3.

§ 5.1103–6 Consolidation of requirements.

The primary object of coordinated procurement is to obtain for the Government maximum economy through the consolidation of requirements and the elimination thereby of competitive purchases among the departments. The procuring department shall whenever possible, consolidate in one contract its own requirements for the same or similar items plus all requirements received via MIPRs or other purchase requests.

§ 5.1104 Items in short supply.

When shortages develop in the market for supplies being purchased and requirements have been submitted by more than one department, the normal procedure shall be to resolve the problem on a departmental level between or among the departments based on priorities for the supplies. If agreement cannot be reached, the subject shall be referred to the Assistant Secretary of Defense (Installations and Logistics) for decision.

§ 5.1105 Transfer of uncompleted contracts.

§ 5.1105–1 Effect of assignment of procurement responsibility.

As a general rule, when the procurement responsibility for a commodity or class of commodities is assigned to one department, uncompleted contracts of any other department for any such commodity or class of commodities will not be transferred but will continue to be administered by the procuring department or Defense Contract Administration Services as appropriate.

§ 5.1105–2 Dispute under transferred contracts.

In the case of any contract transferred, or to be transferred, from one Department to another Department, which contract refers to either the Navy Department Board of Contract Appeals or the Army Board of Contract Appeals, the contract should be amended to provide that the Armed Services Board of Contract Appeals will hear and decide all disputes concerning questions of fact which are appealed pursuant to the "Disputes" clause of such transferred contract.

§ 5.1105–3 Contracting officers under transferred contracts.

In the case of any contract transferred, or to be transferred, to any department, the successor to the contracting officer for each such contract shall be the head of the procuring activity (or any contracting officer thereof) to which the administration of any such contract is assigned, and any such successor shall have all of the rights and responsibilities of a contracting officer under such transferred contract.

§ 5.1106 Purchase authorization.

§ 5.1106–1 MIPRs or other authorized purchase requests.

(a) Military Interdepartmental Purchase Requests (MIPRs) or other authorized purchase requests when received by the procuring department shall be the authority to procure the supplies or nonpersonal services in accordance with single department procurement assignments or agreements between the departments concerned as provided in § 5.1118. The procuring department is authorized to create obligations against the funds cited in a MIPR without further referral to the requiring department. The procuring department has no responsibility to determine the validity of a stated requirement in an ap-

proved MIPR; however, it should bring apparent errors in the requirement to the attention of the requiring department.

(b) When purchase requests other than MIPRs (see § 5.1101–5) are used as the basis for procurement, the general procedures prescribed for processing, amending, accepting and terminating requirements on MIPRs as prescribed in § § 5.1108, 5.1109 and in other sections of this subpart shall normally be followed, except as otherwise agreed to by the departments involved.

§ 5.1106–2 Use of advanced MIPRs.

(a) An advance MIPR is an unfunded MIPR provided to the procuring activity in advance of the formal funded MIPR whereby initial steps in planning procurement action can begin at an earlier date.

(b) Advance MIPRs may be used only when the procuring department and the requiring department agree that the procedure may be beneficial in placing the procurement and obtaining the requirements in a more timely manner.

(c) Advance MIPRs shall not be released to a procuring activity until proper approval of the requirement is obtained.

(d) When advance MIPRs are used, the DD 448 shall be prominently marked "Advance MIPR."

(e) For urgent requirements, the advance MIPR may be in the form of an electrically transmitted message.

(f) On the basis of an advance MIPR, the procuring department may take the initial steps toward establishing a contract, such as obtaining internal coordination, preparing a procurement plan, and making determinations and findings. The extent of such action may be determined by the procuring departments. However, contracts shall not be awarded on the basis of advance MIPRs.

§ 5.1106–3 Determinations and findings.

(a) *General.* (1) When coordinated procurement is by negotiation, the procuring department, except as provided in subparagraph (2) of this paragraph, shall make the determinations and findings in accordance with Subpart C, Part 3 of this chapter. The requiring department shall furnish with the purchase request the information required by the procuring department to develop the determinations and findings.

(2) When coordinated procurement is negotiated pursuant to 10 U.S.C. 2304(a)(13) and § 3.213 of this chapter, the requiring department shall make the determinations and findings in accordance with Subpart C, Part 3 of this chapter. When the requiring department is responsible for securing Secretarial approval under 10 U.S.C. 2304(a)(16) and § 3.216 of this chapter, the MIPR shall contain a statement that the required determinations and findings has been executed for the specific case in question or program involved. In both instances the requiring department shall preserve the original determinations and findings with supporting data as required by § 3.308 of this chapter, and shall make distribution in accordance with § 3.307 of this chapter, except that two copies shall be attached to the MIPR or purchase request. The procuring department shall file one copy in the official contract file and forward the other copy to the General Accounting Office with the copy of the negotiated contract.

(b) *Foreign end products.* Where a foreign end product is specified by the requiring department, that department is responsible for determining that a domestic source end product is not available as required by § 6.102–3(b) of this chapter. Two copies of the determination that a domestic source end product is not available shall be furnished to the procuring department with the MIPR.

§ 5.1106–4 Delivery schedules.

(a) In submitting MIPRs the requiring department should take into consideration the normal administrative lead time of the particular commodity in order to insure delivery by the date required. The time of delivery or performance is an essential element for inclusion in a contract and must be clearly stated in each MIPR. Delivery and performance schedules on MIPRs shall be designed to meet the requirements of the particular procurement and must be realistic (see § 1.305). If the delivery schedule as set forth in a MIPR is unrealistic or cannot be accepted by the Procuring Department, the DD Form 448–2 "Acceptance of MIPR" will be so annotated (see § 5.1109–3). Changes in the requested delivery schedule shall be accomplished in accordance with § 5.1108–6.

(b) When a short delivery schedule is mandatory, the MIPR shall be marked "URGENT" in bold letters. The requiring department's justification for the "URGENT" marking shall be stated on the MIPR or attached thereto, in order to enable the procuring department to apply any necessary expediting techniques to assure the required delivery (see § 3.801–3 of this chapter).

§ 5.1106–5 Specifications, drawings, and other purchase data.

The requiring department shall furnish to the procuring department a list (or copies) of specifications, drawings, and other data, as appropriate, required for the procurement. If Federal, military, departmental, or other specifications, or drawings or data are available to the procuring department and referenced in the MIPR, they need not be furnished by the requiring department. Under no circumstances shall the procuring department direct or authorize deviations or waivers from the specifications, drawings, or other purchase data included in the MIPR without express authority of the requiring department. Required changes in such purchase data shall be accomplished as set forth in § 5.1108–6.

§ 5.1106–6 Utilization of existing Department of Defense assets.

The requiring department is responsible for insuring compliance with § 1.302–1 of this chapter prior to submitting military interdepartmental purchase requests for procurement action.

§ 5.1106–7 Options for increased quantities.

If the requiring department desires an option to purchase an additional quantity, the MIPR shall so stipulate and shall contain a justification therefor.

§ 5.1107 Funds and payments.

§ 5.1107–1 Citation of appropriation and funds of requiring department.

Contracts and orders for other than integrated supply management materiel shall cite the appropriations or funds of the requiring department unless it is not considered feasible and economical to relate payments directly to the end item and ultimate use of the material being procured. The procuring department shall determine for each commodity which type of funding (direct citation or consolidated-reimbursable procurements) shall generally be used. The conditions under which it is considered not feasible to cite the funds of the requiring departments are:

(a) Procurement of the end item involves separate procurement of components to be assembled by the procuring department;

(b) At the time of acceptance of the MIPR, it is not considered feasible to identify specific quantities of the end item with the respective requiring department because of the possibility of allocation of the materiel upon a different basis when completed items are delivered; or

(c) Payments will be made without reference to deliveries of end items; for example, cost-reimbursement type contracts, and fixed price contracts with progress payment clauses.

§ 5.1107–2 Citation of funds of procuring department.

Under the conditions listed in § 5.1107–1 where citation of the funds of the requiring department is not feasible, only the funds of the procuring department shall be cited in the consolidated contracts, and the contracts and orders hereunder shall provide for payment by the procuring department or by the Defense Contract Administration Services as appropriate. Reimbursement billings and shipping documents shall be referenced to the MIPR number and submitted to the requiring department, which shall reimburse the procuring department.

§ 5.1173–3 Disbursement.

When the contract is to be administered by the Defense Contract Administration Services, the procuring department shall cite as the disbursement office the Defense Contract Administration Services Region Disbursing Office.

§ 5.1108 Preparation and use of DD Form 448/448c (MIPR).

DD Forms 448 and 448c are substantially self-explanatory. If desired, each Department may overprint fixed repetitive information.

§ 5.1108–1 Special instructions.

(a) MIPR Number. The MIPR number will consist of:

(1) The requiring agency identification code as prescribed in the DOD Activity Address Directory (AR 725–50–1; DSAH 4140.1 (for the Department of the Navy and the Defense Supply Agency); AFM 75–6; MCO P4420.2A; CG 364),

(2) The last digit of the fiscal year, and

(3) The number of the particular MIPR (numbered consecutively by the requiring activity).

Amendments will be numbered with the MIPR number suffixed with the amendment number assigned in consecutive numbered sequence.

(b) Appropriate checks in Item 9 shall be accomplished in compliance with Department of Defense policy which requires interdepartmental screening of items in accordance with § 1.302–1 of this chapter to determine stock availability within other departments prior to preparation of a DD Form 448. Items within the scope of MILSTRIP (see DOD 4140.17–M (MILSTRIP) of May 1, 1964, as amended) which are determined to be available from stocks of other Departments shall be obtained by use of DD Form 1348/1348m, "DOD Single Line Item Requisition System Document." Items not covered by MILSTRIP and determined to be available from stocks of other Departments shall be obtained by use of DD Form 1149, "Requisition and Invoice/Shipping Document." If after receipt of a MIPR by a procuring department it is determined that the items can be supplied from stock, the MIPR shall be used for effecting supply from such stock.

(c) Normally a MIPR shall be restricted to one major end item, including its required spare parts, ground support equipment, and similar related items. MIPRs for other than major end items normally shall be limited to items within a single Federal Supply Classification.

(d) Attachments to MIPRs (Item 10) must be prepared in sufficient numbers so that each copy of a MIPR submitted to the procuring department is complete with a copy of all attachments.

(e) If payment is to be made by an office other than the office to which the invoice is to be mailed (Item 13), the information to this effect will be set forth in detail as an attachment to the MIPR.

(f) The requiring department shall initiate and forward DD Form 254, "Security Requirements Check List," when work or information in connection with a requested procurement requires security protection.

§ 5.1108–2 Cutoff dates for submission of MIPRs.

(a) Unless otherwise agreed between the Departments, a cutoff date of February 28, of each year is established for the receipt of MIPRs citing annual (expiring) appropriations which must be obligated by June 30, of that fiscal year. If circumstances arise which require the submission of MIPRs citing expiring appropriations after the cutoff date, the requiring department will communicate with the procuring department prior to submission to ascertain whether or not it will be possible for the procuring department to execute a contract or otherwise obligate the funds by the end of the fiscal year. Procuring departments will make every effort to obligate funds for all such MIPRs accepted after the cutoff date. However, acceptance of a late MIPR does not constitute assurance by the procuring department that all such funds will be obligated. The provisions of these instructions are not to be construed as restrictive in the processing of MIPRs when it is within the capabilities of the procuring department to execute contracts or otherwise obligate the funds prior to the end of the fiscal year.

(b) MIPRs citing continuing appropriations are not restricted by law to time limits for obligation; therefore, the cutoff date of February 28, is not applicable to such MIPRs and procurement action should continue regardless of whether obligation will be accomplished before or after the end of the fiscal year. However, as the timely accomplishment of obligations is a factor affecting delivery of material, every effort must be made by the procuring department to obligate available funds as soon after receipt of the MIPR as is possible.

§ 5.1108–3 Notification of inability to obligate.

On May 1, of each fiscal year, the procuring department will advise the requiring department of any MIPRs on hand citing annual appropriations on which they will be unable to obligate the funds prior to the fund expiration date. If an unforeseen situation develops after May 1, which will prevent execution of a contract, the procuring department will notify the requiring department of that fact by the most expeditious means and return the MIPR accompanied by a letter of transmittal authorizing purchase by the requiring department including the reason that procurement could not be accomplished.

§ 5.1108–4 Number of copies of MIPRs with attachments to be submitted.

Unless otherwise agreed by the Departments, the original and six copies of each MIPR, all complete with attachments, shall be forwarded to the procuring department. When copies of specifications, drawings, or other data are to be furnished with MIPRs (see § 5.1106–5), the number of copies of such data to be furnished shall be as agreed upon by the requiring and procuring departments.

§ 5.1108–5 Changes to MIPRs.

(a) All changes, except as provided in paragraph (c) of this section whether prior to or after conversion to a contract, that affect the contents of the MIPR must be processed as a MIPR amendment. This includes such changes as a decrease in quantity, increase in funds, decrease in funds, change in part stock or drawing number, packaging, specifications, delivery schedules, engineering change proposals, etc., subject to the provisions of § 5.1112, as applicable. Such changes can be initially provided by expeditious means such as telegraphic message but shall be confirmed by a MIPR amendment. If requirements increase the quantity of items ordered or cover additional items of supplies or services not provided for in the original MIPR, such increased requirements shall be submitted on a new MIPR which will cross-reference the original MIPR.

(b) Only those items of the DD Form 448 that are applicable to the change, revision, etc., being written, which vary or deviate from the data shown on the basic MIPR or prior amendment thereto will be filled out. All other items will have "n/c" inserted to reflect no change. However, basic information in items 1 through 8 must always be shown.

(c) A MIPR amendment is not required for a change of a disbursing office set forth on a DOD funded MIPR when the resultant contract is assigned for contract administration to a Defense Contract Administration services region. Such change may be made by the DCASR by issuance of an administrative change order, copies of which will be provided to the PCO for transmittal to the requiring activity.

§ 5.1108–6 Requests for additional funds.

When the procuring department requires additional funds to complete procurement actions for the requiring department, the request for additional funds must identify the exact items involved and the reason why additional funds are required. The requiring department shall take expeditious action to provide such funds by an amendment to the MIPR or to reduce requirements accordingly. In case of any anticipated delay in furnishing required additional funds, the procuring department will be advised accordingly.

§ 5.1109 Acceptance of MIPR.

As soon as practicable, but not later than 30 days after receipt of a MIPR, the procuring department shall formally accept the MIPR by accomplishment of DD Form 448–2, "Acceptance of MIPR." If this time limit cannot be met, the requiring department shall be informed of the reason for the delay and the anticipated date the MIPR will be accepted. When accepted for consolidated-reimbursable procurement, the accomplished DD Form 448–2 is the authority for the requiring department to record the obligation of funds. When accepted for direct citation procurement, the accomplished DD Form 448–2 is notification that copies of contracts will be furnished at a later date and a conformed copy of the contract will be the authority to record the obligation. The accepting activity of the procuring department shall remain responsible for the MIPR even though that activity may split the MIPR into segments for actions among other procurement activities.

§ 5.1109–1 Qualified acceptance.

Where contingencies, price revisions or variations in quantities are anticipated by the procuring department under consolidated-reimbursable procurement, the acceptance will be so annotated on DD

Form 448–2. When the acceptance is qualified, the procuring department will periodically advise the requiring department prior to submission of billings, of any changes in the acceptance figure so that an amendment to the MIPR may be issued by the requiring department and the appropriate adjustment may be made to the recorded obligation to reflect the current price.

§ 5.1109–2 Nonqualified acceptance.

If the acceptance of a MIPR is not qualified by the procuring department for anticipated contingencies under consolidated-reimbursable procurement, the price on the acceptance will be final and will be the one billed at time of delivery.

§ 5.1109–3 Preparation and use of DD Form 448–2 (Acceptance of MIPR).

(a) DD Form 448–2 is substantially self-explanatory, however, certain details are defined below. Only pertinent items should be accomplished.

(1) Check the specific terms in Item 6 under which the MIPR is being accepted. (See § 5.1107.)

(2) If any one of the MIPR line items is not accepted, Item 7 will be checked and the affected MIPR line item number and reason recorded in Item 13.

(3) Items 8 and 9 will be used only:

(i) When Item 6c acceptance is indicated, identify the MIPR line item numbers that will be provided under each method of financing in Items 8a and 9a respectively; or

(ii) If quantities or estimated costs cited in a MIPR require adjustment, the affected MIPR line item numbers will be listed together with the adjusted quantities or estimated costs in the columns provided under Items 8 and 9 as may be appropriate.

(4) Whenever a MIPR is accepted in part or in total under Category II (direct citation) method of financing, the procuring department will forecast in Item 10 the approximate date that contractual placement is expected to be accomplished.

(5) Enter the total amount of funds in Item 11 required by the procuring department to fund the MIPR items, as accepted.

(6) Complete Item 12 only in those cases where the amount recorded in Item 11 is not in agreement with the amount recorded in Item 5. This will serve either as (i) request on the requiring department to issue a MIPR amendment to provide the additional funds required, or (ii) authority for the requiring department to withdraw the available excess funds. When funds of two or more appropriations are involved, proper breakdown information will be provided in Item 13.

(7) Item 13 will be used to record (i) justification, by MIPR line item, for any additional funds required; (ii) explanation for rejection of MIPR whether in part or in total, and (iii) such other data as may be pertinent.

(b) DD Form 448–2 shall be accomplished on all MIPR amendments involving an adjustment of funds. The procuring department will acknowledge receipt of a MIPR amendment not involving an adjustment of funds when so requested in the letter transmitting the amendment.

(c) The requiring department will be furnished four copies (one signed) of each accomplished DD Form 448–2 unless otherwise agreed between the Departments.

§ 5.1109–4 Withdrawal of funds.

(a) When the procuring department accepts a MIPR for consolidated-reimbursable procurement in a lesser amount than authorized on the MIPR, the DD Form 448–2 is the authorization for the requiring department to withdraw such excess funds by MIPR amendment. Upon receipt of the final billing (SF 1080) and a subsequent determination that all items requested on the MIPR have been delivered and billed in an amount less than the MIPR, the requiring department may adjust their fiscal records accordingly without authorization from or notice to the procuring department.

(b) When the procuring department has accepted a MIPR for direct citation procurement, and initial contract placement is completed, any unused funds remaining on the MIPR become excess and are no longer authorized for use of the procuring department. Any such excess funds will be immediately reported to the requiring department. Although the procuring department is prohibited from further use of such excess funds, the requiring department will confirm the withdrawal of excess funds by the issuance of a MIPR amendment.

§ 5.1110 Components of end items.

§ 5.1110–1 Contractor-furnished components.

In the procurement of end items where the contractor normally secures all components thereof from his own source (not Government-furnished), the procurement assignment does not apply to the component items required by such contractor.

§ 5.1110–2 Government-furnished components.

In the procurement of end items where the Government furnishes components which are covered by a procurement assignment, such components shall be procured in accordance with the procurement assignment. However, direct purchase may be made by a requiring department in exceptional cases where agreement is reached with the procuring department or is authorized in accordance with § 5.1201.

§ 5.1110–3 Purchase of components over and above those initially purchased with the end item.

The procurement of components covered by a procurement assignment, over and above those initially purchased with the end item, shall be effected in accordance with the procurement assignment. However, direct purchase may be made by a requiring department in exceptional cases where agreement is reached with the procuring department or is authorized in accordance with § 5.1201.

§ 5.1111 Distribution of contracts and orders.

The procuring department shall make bulk distribution to the requiring department of 10 copies of all contracts and orders (including modifications, changes, etc.) directly citing the funds of the requiring department. Two of the ten copies shall be signed or authenticated. If the procuring department incorporates the MIPR requirements into existing contracts by issuance of supplemental agreements, etc., one copy of the basic contract shall be furnished to the requiring department for use of the finance office. In addition, one copy of all preceding contractual changes or a signed letter to the effect that preceding contractual changes do not relate to or affect the procurement of the MIPR requirements shall be furnished.

§ 5.1111–1 Consignee copies.

In addition to bulk contract distribution as provided in § 5.1111, the procuring department will distribute one copy of each contract and subsequent contractual changes direct to each consignee.

§ 5.1112 Cancellation of requirements.

(a) *Direct citation procurement.* When all or any part of the supplies or services requested in the MIPR are to be canceled by the requiring department, that department shall so notify the procuring department by telegraphic notice. In the event that the procuring department has not entered into a contract for the supplies and services to be canceled, the requiring department shall be immediately notified to that effect. Upon receipt of such notification, the requiring department shall initiate a MIPR amendment to revoke the estimated amount shown on the original MIPR for the canceled items.

(1) In the event that the items to be canceled have already been placed under contract, the following procedures will apply. As soon as practicable but in any event within 45 days after receipt of the notice of cancellation from the requiring department, the procuring contracting officer shall issue a termination data letter to the requiring department (original and 4 copies) which will contain as a minimum the information set forth below.

Subject: Termination Data Re:
Contract No.
Termination No.
Contractor
To:

1. As termination action is now in progress on the above contract, the following information is submitted:

(a) Brief Description of Items terminated

(b) You are notified that the sum of $_____ is available for release under the subject contract which sum represents the difference between $_____, the value of items terminated under subject contract, and $_____ estimated to be required for settlement of the terminated contract. The estimated amount available for release is allocated by the appropriations on the contract as follows:

Accounting Classification

MIPR No. Amount

Total available for release at this time $_____

2. You are requested to forward an amendment to MIPR _____ on DD Form 448 to reflect the reduced quantity and amount of funds available for release.

3. Periodic examinations (not less than 60 days) will be made as termination proceedings progress to redetermine the Government's probable obligation.

(Signature or Procuring Contracting Officer)

(2) Periodic examinations of the termination proceedings will be accomplished no less often than every 60 days by the termination contracting officer to reassess the Government's probable obligation. If any additional funds are excess to the probable settlement requirements, or if its appears that previous release of excess funds will result in a shortage of the amount which will be required to consummate settlement, prompt action will be taken to notify the purchasing office, which will amend the termination data letter accordingly. A MIPR amendment to reflect the reinstatement of funds shall be processed by the requiring department within 30 days after the amended termination data letter requesting reinstatement of funds has been received from the purchasing office.

(3) If required, an amendment to the MIPR covering final removal of any remaining excess funds with respect to terminated quantities shall be prepared by the requiring department upon receipt of its copy of the termination settlement agreement.

(b) *Consolidated-reimbursable procurement.* When all or any part of the supplies or services requested in the MIPR are to be canceled by the requiring department, that department shall notify the procuring department by telegraphic notice. Within 30 days, the procuring department shall notify the requiring department as to the quantity of items available for termination and the amount of funds in excess of the estimated settlement costs. Upon receipt of this information, the requiring department shall issue a MIPR amendment to reduce the quantities and funds accordingly.

(c) *Termination by default.* When the procuring department exercises authority to terminate for default (Subpart P, Part 8 of this chapter), that Department will query the Requiring Department as to whether the supplies or services to be terminated are still required so that repurchase action as specified in § 8.602-6 can be undertaken.

(1) The requiring department will not deobligate funds on a contract terminated for default until such time as a contractual supplemental agreement of settlement or other written evidence from the procuring department as to release of funds is received.

(2) On the repurchase action, the procuring department will not exceed the unliquidated funds on the defaulted contract without the provisions of additional funds by the requiring department.

§ 5.1113 Administrative costs.

The procuring department shall bear, without reimbursement therefor, the administrative costs incidental to its procurement of supplies for another department. However, when a procurement responsibility is transferred from one department to another department, funds appropriated or to be appropriated for defraying the administrative costs of such procurement responsibility shall be made available to the successor procuring department which shall assume budget cognizance at the earliest possible date.

§ 5.1114 Inspection.

Policies and procedures concerning inspection and acceptance for use in conjunction with this subpart are set forth in Part 14 of this chapter.

§ 5.1115 Execution of contracts.

Generally, the procuring department shall execute a single contract where an award embodying the requirements of more than one Department is made to a single contractor.

§ 5.1116 Status reporting.

An appropriate system of follow-up shall be maintained by the contract administration office in order that the procuring office may be currently informed as to contractor performance and may in turn insure that requiring departments are appraised of the status of contracts.

§ 5.1117 Transportation of supplies.

Subject to the provisions of Subpart M, Part 1 of this chapter, every requisition or MIPR shall show the appropriation or fund and accounting classification chargeable for such transportation costs as may be incurred in effecting delivery at Government expense. Government bills of lading, when required will generally be issued by the Contract Administration Office. In every instance, the Government bill of lading shall show (a) the requiring department as the department to be billed, and (b) the appropriation or fund designated by that department as the appropriation chargeable.

§ 5.1118 Procurement agreements.

(a) This section establishes policy as authorized in 10 U.S.C. 2308 with regard to agreements between the Departments or other agencies for procurement of commodities or services not assigned in accordance with Subpart L of this part.

(b) 10 U.S.C. 2308 provides that department heads by agreement may make assignments and delegations of procurement responsibilities from one department to another or may create joint or combined offices to exercise procurement functions and responsibilities.

(c) Agreements may be made on either a one-time basis or a continuing basis. The submission of a MIPR by a requiring activity and its acceptance by the purchasing activity of another department, even though based on oral communication, shall establish a one-time agreement. Delegated procurement responsibilities of a continuing nature shall be considered for single procurement assignment. However, all agreements of a continuing nature shall be formalized, implemented, and distributed among the activities concerned even though not considered suitable for single procurement assignment.

Subpart L—Commodity Assignments

Sec.

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

§ 5.1201 Assignment authority.

The commodity assignments set forth below have been made by the Assistant Secretary of Defense (Installations and Logistics) to the military departments. Also included are assignments to the General Services Administration made by the Assistant Secretary of Defense (Installations and Logistics) in accordance with DOD/GSA agreements. The letter "P" appearing after an FSC Code indicates a partial FSC assignment.

§ 5.1201-1 Exclusions—military department assignments (except Defense Supply Agency).

General exclusions to applicability of commodity assignments made to a military department (except Defense Supply Agency) are:

(a) Emergency procurements, as determined by the requiring department;

(b) Procurements not in excess of $2,500;

(c) Procurements of items authorized for local purchase, pursuant to mutual agreement between the assignee and the other users;

(d) Items in a research and development stage; and

(e) Item subject to rapid design changes, or to continuous redesign or modification during the production or operational use phases which necessitate continual contact between industry and technical personnel of the requiring service to insure that the item procured is exactly that which is required.

§ 5.1201-2 Exclusions—Defense Supply Agency assignments.

(a) *Optional exclusions.* With respect to commodity assignments made to the Defense Supply Agency, the following categories of service-managed items within an assigned class may be purchased by the other military departments at their option:

(1) Items in a research and development stage;

(2) Items peculiar to atomic ordnance materiel because of design characteristics or because of test-inspection requirements which are controlled by the Atomic Energy Commission;

(3) Items to be procured under the authority of a determinations and findings issued pursuant to 10 U.S.C. 2304(a)(12) and § 3.212 of this chapter, Classified purchases (i.e., purchases or contracts classified "Confidential" or higher, or where because of other considerations a contract should not be publicly disclosed);

(4) Items to be procured under the authority of a determinations and findings issued pursuant to 10 U.S.C. 2304(a)(14) and § 3.214 of this chapter, Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture;

(5) Items which are directly related to a weapon/defense/space system and which are design-controlled by and procured from either the system manufacturer or a manufacturer of a major subsystem thereof;

(6) Items subject to rapid design changes, or to continuous redesign or modification during the production or operational use phases which necessitates continual contact between industry and technical personnel of the requiring service to insure that the item procured is exactly what is required;

(7) Containers procured only with items for which they are designed;

(8) Emergency procurements, as determined by the requiring activity;

(9) Procurements of service-managed or noncataloged items not in excess of $2,500; and

(10) Noncataloged items in the nature of a one-time buy and not contemplated as an item of supply in the supply system.

(b) *Defense Supply Agency responsibility to procure excluded items upon request.* Items which may be purchased by the other military departments at their option under paragraph (a) of this section shall be procured by the Defense Supply Agency at the request of the other military departments.

(c) *Exclusions to Defense Supply Agency assignments by agreement.* The military departments shall process to the appropriate Defense Supply Agency center for procurement those service-managed items which do not meet the exception criteria set forth in paragraph (a) of this section, unless by mutual agreement between the cognizant military service inventory manager and the Defense Supply Agency center concerned, the item is determined to be most satisfactorily procured on a military service basis.

§ 5.1201–3 Department of the Army.

["P" after the FSC number indicates a partial FSC assignment]

Federal supply class code	*Commodity*
	Electric Equipment.—Each Department is assigned procurement responsibility for those items which the Department either designed or for which it sponsored development. See FSC 5821 under Navy listing for assignment of certain commercially developed radio sets (i.e., developed without the use of Government funds).
1005 P[1]	Guns, through 30 mm.—This partial FSC assignment applies to Guns, through 30 mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type guns; MK 11 and MK 12, 20 mm gun; and aircraft gun mounts.
1010 P[1]	Guns, over 30 mm, up to 75 mm.—This partial FSC assignment applies to Guns, over 30 mm and up to 75 mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type guns and aircraft gun mounts.
1015 P[1]	Guns, 75 mm through 125 mm.—This partial FSC assignment applies to Guns, 75 mm through 125 mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type guns.
1020 P[1]	Guns over 125 mm.
1025 P[1]	
1030 P[1]	
1035 P[1]	This partial FSC assignment applies to Guns, over 125 mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type guns.
1040	Chemical Weapons and Equipment.
1055 P[1]	Launchers, Rocket and Pyrotechnic.—This partial FSC assignment applies to launchers, rocket and pyrotechnic, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Naval Ordnance type and airborne type.
1095 P[1]	Miscellaneous Weapons.—This partial FSC assignment applies to miscellaneous weapons, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type; line throwing guns (which are under DoD Coordinated Procurement assignment to the Department of the Navy); and aircraft type miscellaneous weapons.
1210 P[1]	Fire Control Directors.
1220 P[1]	Fire Control Computing Sights and Devices.
1230 P[1]	Fire Control Systems, Complete.
1240 P[1]	Optical Sighting and Ranging Equipment.
1250 P[1]	Fire Control Stabilizing Mechanisms.
1260 P[1]	Fire Control Designating and Indicating Equipment.
1265 P[1]	Fire Control Transmitting and Receiving Equipment Except Airborne.
1285 P[1]	Fire Control Radar Equipment, Except Airborne.
1290 P[1]	Miscellaneous Fire Control Equipment.—The above nine partial FSC assignments apply to fire control equipment, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type and aircraft type.
1305 P[1]	Ammunition, through 30 mm.—This partial FSC assignment applies to ammunition through 30 mm as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type and ammunition for the Mk 11 and Mk 12, 20 mm gun.
1310 P[1]	Ammunition, over 30 mm up to 75 mm.—This partial FSC assignment applies to ammunition, over 30 mm up to 75 mm, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type and to 40 mm ammunition (which is under DoD Procurement Assignment to the Navy). The Army is responsible for loading, assembling and packing toxicological, smoke and incendiary shells.
1315 P[1]	Ammunition, 75 mm through 125 mm.—This partial FSC assignment applies to ammunition, 75 mm through 125 mm, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type. The Army is responsible for loading, assembling and packing toxicological, smoke and incendiary shells.
1320 P[1]	Ammunition, over 125 mm.—This partial FSC assignment applies to ammunition over 125 mm, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to naval ordnance type. The Army is responsible for loading, assembling and packing toxicological, smoke and incendiary shells.
1325 P	Bombs.—This partial FSC assignment applies to Bombs as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Navy assigned Bombs as shown in list of commodities assigned to the Navy; however, the Department of the Army is responsible for loading, assembling and packing toxicological, smoke and incendiary shells, and for other loading, assembling and packing in excess of Navy owned capacity.
1330	Grenades.
1340 P	Rockets and Rocket Ammunition.—This partial FSC assignment applies to: 2.75 In. Rocket FFAR, service and practice; Heads MK 1 and Mods (General Purpose), MK 5 and Mods (HEAT); Motors MK 1 and Mods, MK 2 and Mods, MK 3 and Mods; HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smoke, WP, 3.5 In., M30; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; Incendiary and toxicological rockets, as listed in Army Supply Bulletins. It does not apply to Navy assigned rockets as shown in list of commodities assigned to the Navy. However, the Department of the Army is responsible for procurement of filler and for filling of all smoke and toxicological rockets.
1345	Land mines.
1365	Military Chemical Agents.
1370 P	Pyrotechnics.—This partial FSC assignment does not apply to shipboard and aircraft pyrotechnics.

See footnotes at end of section.

Federal supply class code	Commodity
1375 P	Explosives, Solid Propellants, and Explosive Devices.—This partial FSC assignment is applicable to Blasting Agents and Supplies such as: Bangalore torpedo; Blocks, demolition; Caps, blasting, electric and nonelectric; Charge, cratering; Charges, shaped and demolition; Chests, demolition platoon and squad; Cord detonating; Demolition equipment sets, with ancillary items; Detonators, all types; Dynamite; Firing Devices; Fuze, safety; Kit, demolition; Lighter, fuse; Machine, blasting; Primer, percussion cap. It does not apply to Navy underwater demolition requirements. This partial FSC assignment applies to the following items of Explosives: Ammonium Picrate (Explosive D) JAN–A–166A; Trinitrotoluene (TNT) MIL–T–248A; Tetryl JAN–T–339; Pantaerythrite Tetranitrate (PETN) JAN–P–387; RDX; Composition B; Composition B–3; Pentolite, 50/50 JAN–P–408; Composition C–3; Composition A–3; Composition A–4; Nitroguanidine (Picrite). It does not apply to production capacity for any of the above listed explosives at the U.S. Naval Propellant Plant, Indian Head, Md. This partial FSC assignment is applicable to the following Propellants: Propellants for Small Arms Ammunition, Calibers .30 to 30 mm, inclusive, except Blank and Caliber .45; Propellant (for Small Arms Ammunition, Caliber .45) MIL–P–3207; Propellant, Increment, M8 MIL–P–10557; Propellant, M9; Powder, Rocket Propellant, Type N–4–MIL P–16401; Propellant, Cannon, M1, M6, M14, JAN–P–309; Propellant, Cannon, M2, M5, JAN–P–323; Propellant, 4.2 Inches, Chemical Mortar; Propellant, M7; Propellant, M15 and M17 MIL–P–668A; Propellant, M10; Rocket Propellant Powder NAVORD OS 3383. It does not apply to production capacity for any of the above listed propellants at the U.S. Naval Propellant Plant, Indian Head, Md.
1380	Military Biological Agents.
1390 P[1]	Fuzes and Primers.—This partial FSC assignment applies to Fuzes and Primers for Army assigned ammunition and V.T. Fuzes, nonrotating types. It does not apply to Naval Ordnance type; V.T. Fuzes, rotating type which are under DoD procurement assignments to the Department of the Navy; and guided missile fuzes.
2210	Locomotives.
2220	Rail Cars.
2240	Locomotive and Rail Car Accessories and Components.
2250	Track Materials, Railroad.
2310	Passenger Motor Vehicles.
2320 P	Trucks and Truck Tractors.—This partial FSC assignment does not apply to tracked landing vehicles, which are not under DoD Coordinated Procurement assignment and airport crash rescue vehicles, which are under DoD Coordinated Procurement assignment to the Department of the Air Force.
2330 P	Trailers.—This partial FSC assignment does not apply to two wheel lubrication trailers, two wheel steam cleaning trailers, and troop transporter semi-trailers which are not under DoD Coordinated Procurement assignment, and airport crash rescue trailer units which are under DoD coordinated Procurement assignment to the Department of the Air Force.
2340 P	Motorcycles, Motor Scooters, and Bicycles.—This partial FSC assignment does not apply to bicycles and tricycles.
2350	Tanks and Self-Propelled Weapons.
2430	Tractors, Track Laying, High Speed.
2510 P	Vehicular Cab, Body, and Frame Structural Components.
2520 P	Vehicular Power Transmission Components.
2530 P	Vehicular Brake, Steering, Axle, Wheel, and Track Components.
2540 P	Vehicular Furniture and Accessories.
2590 P	Miscellaneous Vehicular Components.—The above five partial FSC assignments apply only to repair parts peculiar to combat and tactical vehicles. Balance of the five Federal Supply Classes is assigned to the Defense Supply Agency (Defense Construction Supply Center).
2610 P[2]	Tires and Tubes, Pneumatic, except Aircraft.
2630 P[2]	Tires, Solid and Cushion.
2640 P[2]	Tire Rebuilding and Tire and Tube Repair Materials.—Currently the above three partial assignments apply only to items peculiar to combat and tactical vehicles, and the balance of the three Federal Classes is assigned to the Defense Supply Agency (Defense Construction Supply Center). Footnote 2 sets forth when it is mandatory to procure commercial tires and tubes through the General Services Administration.
2805 P	Gasoline Reciprocating Engines, except Aircraft; and Components.
2910 P	Engine Fuel System Components, Nonaircraft.
2920 P	Engine Electrical System, Components, Nonaircraft.
2930 P	Engine Cooling System Components, Nonaircraft.
2940 P	Engine Air and Oil Filters, Strainers and Cleaners, Nonaircraft.
2990 P	Miscellaneous Engine Accessories, Nonaircraft.—The above six partial FSC assignments apply only to repair parts peculiar to combat and tactical vehicles. Balance of the six Federal Supply Classes is assigned to the Defense Supply Agency (Defense Construction Supply Center).
4210 P	Fire Fighting Equipment.—This partial FSC assignment applies only to equipment developed by or under the sponsorship of the Department of the Army.
4230 P	Decontaminating and Impregnating Equipment.—This partial FSC assignment applies only to items peculiar to chemical warfare.
4240 P	Safety and Rescue Equipment.—This partial FSC assignment applies only to military respiratory protective equipment for chemical warfare.
5805 P	Telephone and Telegraph Equipment.—This partial FSC assignment applies only to military (wire) equipment, field type.
5815 P	Teletype and Facsimile Equipment.—This partial FSC assignment applies only to military (wire) equipment, field type.
5830 P	Intercommunication and Public Address Systems, Except Airborne.—This partial FSC assignment applies only to military (wire) equipment, field type.
6135 P	Batteries, Primary.—This partial FSC assignment applies to JAN type, dry cell batteries, only.
6625 P	Electrical and Electronic Properties Measuring and Testing Instruments.—This partial FSC assignment applies only to instruments for testing military (wire) equipment, field type.
6645 P	Time Measuring Instruments.—This partial FSC assignment applies to the following watches: aircraft instrument panel clocks; cases and spare parts therefor: Master navigation watches; pocket watches; stop watches; second setting wrist watches; wrist watches; athletic timers; aircraft clocks; aircraft panel clocks; mechanical aircraft clocks; navigation watches cases; pocket watch cases; watch holders; watch case assemblies and watch movements.
6665 P	Hazard-detecting Instruments and apparatus.—This partial FSC assignment applies only to items peculiar to chemical warfare.
6695 P	Combination and Miscellaneous Instruments.—This partial FSC assignment applies to jewel bearings only.
6820 P	Dyes.—This partial FSC assignment applies only to items peculiar to chemical warfare.
6910 P	Training Aids.—This partial FSC assignment applies only to items peculiar to Army assignments under weapons, fire control equipment, ammunition and explosives and items peculiar to chemical warfare.
6920 P	Armament Training Devices.—This partial FSC assignment applies to armament training devices as listed in Army Supply Manuals, SM 9–1–6910, 20; SM 9–5–6910, 20. It does not apply to clay pigeons.
6940 P	Communication Training Devices.—This partial FSC assignment applies only to code training sets, code practice equipment, and other telephone and telegraph training devices.
8130 P	Reels and Spools.—This partial FSC assignment applies only to reels and spools for military (wire) equipment, field type.
8140 P	Ammunition Boxes, Packages, and Special Containers.—This partial FSC assignment applies to boxes, packages, and containers for ammunition assigned to the Army under the DoD Coordinated Procurement Program, as listed in Army Supply Manual SM 9–1–8140.

See footnotes at end of section.

FOOTNOTES

[1] For purposes of procurement, Naval Ordnance comprises all arms, armor, and armament for the Department of the Navy and includes all offensive and defensive weapons, together with their components, controlling devices and ammunition used in executing the Navy's mission in National Defense (except small arms and those items of aviation ordnance procured from the Army).

[2] Requirements of Commercial Tires and Tubes, when the item to be procured is less than $10,000 per line item (for tires costing less than $1,000 per tire) or when the item to be procured is less than $25,000 per line item (for tires costing $1,000 or more per tire), shall be purchased in accordance with the mandatory provisions of Federal Supply Schedule, FS Class 26—Part II, Tires and Tubes, Pneumatic (except aircraft). These mandatory provisions do not apply to Military Tires and Tubes, which shall be procured together with those quantities of commercial tires and tubes over the above specified dollar amounts in accordance with procedures implementing this DoD Procurement Assignment.

§ 5.1201–4 Department of the Navy.

["P" after the FSC number indicates a partial FSC assignment]

Federal supply class code	*Commodity*
	Electronic Equipment.—Each Department is assigned procurement responsibility for those items which the Department either designed or for which it sponsored development. See FSC 5821 for assignment of certain commercially developed radio sets to the Department of the Navy (i.e., developed without the use of Government funds).
1095 P	Miscellaneous Weapons.—This partial FSC assignment applies to line throwing guns only.
1310 P	Ammunition, over 30 mm up to 75 mm.—This partial FSC assignment applies to 40 mm ammunition only.
1325 P	Bombs.—This partial FSC assignment applies to armor-piercing; depth bombs; externally suspended low drag bombs; and components and practice bombs therefor, as listed in Ord Pamphlets. With respect to this assignment the Department of the Army is responsible for loading, assembling and packing toxicological, smoke and incendiary shells and for other loading, assembling and packing in excess of Navy owned capacity.
1340 P	Rockets, and Rocket Ammunition.—This partial FSC assignment applies to: 2.25 In. Rocket SCAR, Practice; Heads MK 3 and Mods; Motors MK 15 and Mods, MK 16 and Mods; 5 In. Rocket HVAR, service and practice; Heads MK 2 and Mods (common) MK 6 and Mods (GP), MK 4 and Mods (smoke) MK 25 and Mods (ATAR); Motors MK 10 and Mods; 5 In. Rocket FFAR service and practice; Heads MK 24 and Mods (General Purpose), MK 32 and Mods (Shaped Charged), MK 26 and Mods (Illum); Motor MK 16 and Mods. With respect to this assignment, the Department of the Army is responsible for procurement of filler and for filling of all smoke and toxicological rockets.
1390 P	Fuzes and Primers.—This partial FSC assignment applies to fuzes and primers for Navy assigned ammunition and V. T. fuzes, rotating type, only.
1905 P	Combat Ships and Landing Vessels.—This partial FSC assignment applies to landing vessels only.
1910 P	Transport Vessels, Passenger and Troop.—This partial FSC assignment applies to ferryboats only.
1920	Fishing Vessels.
1925	Special Service Vessels.
1930	Barges and Lighters, Cargo.
1935 P	Barges and Lighters, Special Purpose.—This partial FSC assignment does not apply to Derricks, Pile Drivers, Rock Cutters, Concrete Mixing Plants, Mechanical Bank Grader Barges, Other Bank Revetment Barges; and Barge Power Plants.
1940	Small Craft.
1945 P	Pontoons and Floating Docks.—This partial FSC assignment applies only to Naval Facilities Engineering Command Type Pontoons.
1950	Floating Dry Docks.
1990 P	Miscellaneous Vessels.—This partial FSC assignment applies to commercial sailing vessels only.
2010	Ship and Boat Propulsion Components.
2020	Rigging and Rigging Gear.
2030	Deck Machinery.
2040	Marine Hardware and Hull Items.
2060	Commercial Fishing Equipment.
2090	Miscellaneous Ship and Marine Equipment.
2820 P	Steam Engines, Reciprocating, and Components.—This partial FSC assignment applies to Marine Main Propulsion Steam Engines only.
2825 P	Steam Turbines and Components.—This partial FSC assignment applies to Marine Steam Turbines only.
3439 P	Miscellaneous Welding, Soldering and Brazing Supplies and Accessories.—This partial FSC assignment applies to Soldering Irons and Soldering Guns, and related parts and accessories only.
4210 P	Fire Fighting Equipment.—This partial FSC assignment applies only to fire fighting equipment developed by or under the sponsorship of the Department of the Navy.
4410 P	Industrial Boilers.—This partial FSC assignment applies only to Boilers for use aboard those ships assigned to the Navy for coordinated procurement.
4420 P	Heat Exchangers and Steam Condensers.—This partial FSC assignment applies only to Heat Exchangers for use aboard those ships assigned to the Navy for coordinated procurement.
4925 P	Ammunition Maintenance and Repair Shop Specialized Equipment.—This partial FSC assignment applies to sets, kits and outfits of tools and equipment for explosive ordnance as defined in pertinent Military Service regulations and documents.
5821 P	Radio and Television Communication Equipment Airborne.—This partial FSC assignment applies only to the following commercially developed radio sets: (The term "commercially developed" means that no Government funds were provided for development purposes.) HF-101, 102, 103; ARC-94; and ARC-102.
6125 P	Converters, Electrical.—This partial FSC assignment applies only to Motor-Generator Sets for use aboard ships assigned to the Navy for coordinated procurement.
6140 P	Batteries, Secondary.—This partial FSC assignment applies only to Industrial Batteries for Electrically Operated Materials Handling Equipment.
6320 P	Shipboard Alarm and Signal System.—This partial FSC assignment applies only to Alarm Systems; Fire Alarm Systems; Indicating Systems; Telegraph Systems (Signal and Signaling) (Less Electronic Type) for use aboard ships assigned to the Navy for coordinated procurement.
6605 P	Navigational Instruments.—This partial FSC assignment applies only to lifeboat and raft compasses; aircraft sextants; Hand Leads (Soundings); Lead Reels; Sounding Machines and Pelorus Stands for use aboard ships assigned to the Navy for coordinated procurement.
6645 P	Time Measuring Instruments.—This partial FSC assignment applies to the following instruments, cases and spare parts therefor. Chronometers including gimbal, padded and make-break circuit. Clocks, Alarm; boat; deck; direct reading; electrical; floor; interval timer; marine; mechanical; master control; master program; master regulating; mechanical message center; nurses; program; shelf; stop; wall; watchman's. Counters, time period. Meters; engine running time; hour recording; and electric time totalizing. Timers; bombing; engine hours; sequential; stop; and program. Program control instrument. Cases; chronometer, including gimbal and padded; chronometer carrying; make-break circuit chronometer. Cans; chronometer shipping and storage. Clock keys; clock movements; clock motors.
6650 P	Optical Instruments.—This partial FSC assignment applies only to Stands, Telescope, for use aboard ships assigned to the Navy for coordinated procurement.
6665 P	Hazard Detecting Instruments and Apparatus.—This partial FSC assignment applies only to Hazard Determining Safety Devices, for use aboard ships assigned to the Navy for coordinated procurement.
8140 P	Ammunition Boxes, Packages, and Special Containers.—This partial FSC assignment applies only to Boxes, packages and containers for 40 mm ammunition.
9420 P	Fibres, Vegetable, Animal and Synthetic.—This partial FSC assignment does not apply to raw cotton and raw wool which are assigned for coordinated procurement to the Defense Supply Agency.

§ 5.1201–5 Department of the Air Force.

["P" After the FSC Number Indicates a Partial FSC Assignment]

Federal supply class code — *Commodity*

Electronic Equipment.—Each Department is assigned procurement responsibility for those items which the Department either designed or for which it sponsored development. See FSC 5821 under Navy listing for assignment of certain commercially developed radio sets (i.e., developed without the use of Government funds).

2320 P Trucks and Truck Tractors.—This partial FSC assignment applies only to Airport Crash Rescue Vehicles.

2330 P Trailers.—This partial FSC assignment applies only to Airport Crash Rescue Trailer Units.

4210 P Fire Fighting Equipment.—This partial FSC assignment applies only to firefighting equipment developed by or under the sponsorship of the Department of the Air Force.

6710 P[1] Cameras, Motion Picture.—This partial FSC assignment does not apply to Submarine Periscope and Underwater Cameras.

6720 P[1] Cameras, Still Picture.—This partial FSC assignment does not apply to Submarine Periscope and Underwater Cameras.

6730 P[1] Photographic Projection Equipment.—This partial FSC assignment does not apply to 35mm Theatre Projectors.

6740 P[1] Photographic Developing and Finishing Equipment.

6760 P[1] Photographic Equipment and Accessories.

6780 P[1] Photographic Sets, Kits, and Outfits.

8820 P Live Animals Not Raised for Food.—This partial FSC assignment applies only to sentry and scout dogs.

[1] This partial FSC assignment does not apply to Photographic Equipment controlled by the Congressional Joint Committee on Printing, and Micro-Film Equipment and Supplies.

§ 5.1201–6 Defense Supply Agency.[1]

["P" after the FSC number indicates a partial FSC assignment]

Federal supply class code	Commodity	DSA center [2]
2230	Right of Way Construction and Maintenance Equipment, Railroad	DCSC
2410	Tractor, Full Track, Low Speed	DCSC
2420	Tractor, Wheeled	DCSC
2510 P [3]	Vehicular Cab, Body, and Frame Structural Components	DCSC
2520 P [3]	Vehicular Power Transmission Components	DCSC
2530 P [3]	Vehicular Brake, Steering, Axle, Wheel and Track Components	DCSC
2540 P [3]	Vehicular Furniture and Accessories	DCSC
2590 P [3]	Miscellaneous Vehicular Components	DCSC
2805 P [3]	Gasoline Reciprocating Engines, Except Aircraft; and Components	DCSC
2815	Diesel Engines and Components	DCSC
2895	Miscellaneous Engines and Components	DCSC
2910 P [3]	Engine Fuel System Components, Nonaircraft	DCSC
2920 P [3]	Engine Electrical System Components, Nonaircraft	DCSC
2930 P [3]	Engine Cooling System Components, Nonaircraft	DCSC
2940 P [3]	Engine Air and Oil Filters, Strainers and Cleaners, Nonaircraft	DCSC
2990 P [3]	Miscellaneous Engine Accessories, Nonaircraft	DCSC
3020	Gears, Pulleys, Sprockets, and Transmission Chain	DCSC
3030	Belting, Drive Belts, Fan Belts and Accessories	DCSC
3040	Miscellaneous Power Transmission Equipment	DCSC
3110	Bearings, Antifriction, Unmounted	DISC
3120	Bearings, Plain Unmounted	DISC
3130	Bearings, Mounted	DISC
3210	Sawmill and Planing Mill Machinery	DCSC
3220	Woodworking Machines	DCSC
3230	Tools and Attachments for Woodworking Machinery	DCSC
3431	Electric Arc Welding Equipment	DCSC
3510	Laundry and Dry Cleaning Equipment	DGSC
3520	Shoe Repairing Equipment	DGSC
3530	Industrial Sewing Machines and Mobile Textile Repair Shops	DGSC
3540	Wrapping and Packaging Machinery	DGSC
3550	Vending and Coin Operated Machines	DGSC
3590	Miscellaneous Service and Trade Equipment	DGSC
3610	Printing, Duplicating, and Bookbinding Equipment	DCSC
3655	Gas Generating Equipment	DCSC
3695	Miscellaneous Special Industry Machinery	DCSC
3710	Soil Preparation Equipment	DCSC
3720	Harvesting Equipment	DCSC
3740	Pest, Disease, and Frost Control Equipment	DCSC
3750	Gardening Implements and Tools	DCSC
3770	Saddlery, Harness, Whips and Related Animal Furnishings	DCSC
3805	Earth Moving and Excavating Equipment	DCSC
3810	Cranes and Crane-Shovels	DCSC
3815	Crane and Crane-Shovel Attachments	DCSC
3820	Mining, Rock Drilling, Earth Boring, and Related Equipment	DCSC
3825	Road Clearing and Cleaning Equipment	DCSC
3830	Truck and Tractor Attachments	DCSC
3835	Petroleum Production and Distribution Equipment	DCSC
3895	Miscellaneous Construction Equipment	DCSC
3910	Conveyors	DCSC
3920	Materials Handling Equipment, Nonself-Propelled	DGSC
3930	Warehouse Trucks and Tractors, Self-propelled	DGSC
3940	Blocks, Tackle, Rigging, Slings	DISC
3950	Winches, Hoists, Cranes, and Derricks	DCSC
3990	Miscellaneous Materials Handling Equipment	DGSC
4010	Chain and Wire Rope	DISC
4020	Fiber Rope, Cordage, and Twine	DISC
4030	Fittings for Rope, Cable and Chain	DISC
4110	Self-Contained Refrigeration Units and Accessories	DGSC
4120	Self-Contained Air Conditioning Units and Accessories	DCSC
4130	Refrigeration and Air Conditioning Plants and Components	DCSC
4140	Fans and Air Circulators Nonindustrial	DGSC
4210 P [3]	Fire Fighting Equipment	DCSC
4220	Marine Lifesaving and Diving Equipment	DCSC
4310	Compressors and Vacuum Pumps	DCSC
4320	Power and Hand Pumps	DCSC
4330	Centrifugals, Separators, and Pressure and Vacuum Filters	DCSC
4440	Driers, Dehydrators, and Anhydrators	DCSC
4450	Industrial Fan and Blower Equipment	DCSC
4460	Air Purification Equipment	DCSC
4510	Plumbing Fixtures and Accessories	DCSC
4520	Space Heating Equipment and Domestic Water Heaters	DCSC
4530	Fuel Burning Equipment Units	DCSC
4540	Miscellaneous Plumbing, Heating and Sanitation Equipment	DCSC
4610	Water Purification Equipment	DCSC
4620	Water Distillation Equipment Marine and Industrial	DCSC
4630	Sewage Treatment Equipment	DCSC
4710	Pipe and Tube	DCSC
4720	Hose and Tubing, Flexible	DCSC
4730	Fittings and Specialties: Hose, Pipe, and Tube	DCSC
4810	Valves, Powered	DCSC
4820	Valves, Nonpowered	DCSC
4930	Lubrication and Fuel Dispensing Equipment	DCSC
5110 P [3]	Hand Tools, Edged, Nonpowered	DGSC
5120 P [3]	Hand Tools, Nonedged, Nonpowered	DGSC
5130 P [3]	Hand Tools, Power Driven	DGSC
5133 P [3]	Drill Bits, Counterbores, and Countersinks: Hand and Machine	DGSC
5136 P [3]	Taps, Dies, and Collets: Hand and Machine	DGSC
5140 P [3]	Tool and Hardware Boxes	DGSC
5180 P [3]	Sets, Kits, and Outfits of Hand Tools	DGSC
5210 P [3]	Measuring Tools, Craftsmen's	DGSC
5280	Sets, Kits, and Outfits of Measuring Tools	DGSC
5305	Screws	DISC
5306	Bolts	DISC
5307	Studs	DISC
5310	Nuts and Washers	DISC
5315	Nails, Keys, and Pins	DISC
5320	Rivets	DISC
5325	Fastening Devices	DISC
5330	Packing and Gasket Materials	DISC
5335	Metal Screening	DISC
5340	Miscellaneous Hardware	DISC
5345	Disks and Stones, Abrasive	DISC
5350	Abrasive Materials	DISC
5355	Knobs and Pointers	DISC
5410	Prefabricated and Portable Buildings	DCSC
5420	Bridges, Fixed and Floating	DCSC
5430	Storage Tanks	DCSC
5440	Scaffolding Equipment and Concrete Forms	DCSC
5445	Prefabricated Tower Structures	DCSC
5450	Miscellaneous Prefabricated Structures	DCSC
5510	Lumber and Related Basic Wood Materials	DCSC
5520	Millwork	DCSC

See footnotes at end of table.

["P" after the FSC number indicates a partial FSC assignment]

Federal supply class code	Commodity	DSA center [1]
5530	Plywood and Veneer	DCSC
5610	Mineral Construction Materials, Bulk	DCSC
5620	Building Glass, Tile, Brick and Block	DCSC
5630	Pipe and Conduit, Nonmetallic	DCSC
5640	Wallboard, Building Paper, and Thermal Insulation Materials	DCSC
5650	Roofing and Siding Materials	DCSC
5660	Fencing, Fences, and Gates	DCSC
5670	Architectural and Related Metal Products	DCSC
5680	Miscellaneous Construction Materials	DCSC
5905	Resistors	DESC
5910	Capacitors	DESC
5915	Filters and Networks	DESC
5920	Fuses and Lightning Arresters	DESC
5925	Circuit Breakers	DESC
5930	Switches	DESC
5935	Connectors, Electrical	DESC
5940	Lugs, Terminals, and Terminal Strips	DGSC
5945	Relays, Contactors, and Solenoids	DESC
5950	Coils and Transformers	DESC
5955	Piezoelectric Crystals	DESC
5960	Electron Tubes, Transistors, and Rectifying Crystals	DESC
5961	Semiconductor Devices and Associated Hardware	DESC
5965	Headsets, Handsets, Microphones and Speakers	DESC
5970	Electrical Insulators and Insulating Materials	DGSC
5975	Electrical Hardware and Supplies	DGSC
5977	Electrical Contact Brushes and Electrodes	DGSC
5985	Antennas, Waveguides, and Related Equipment	DESC
5990	Synchros and Resolvers	DESC
5995	Cable, Cord, and Wire Assemblies: Communication Equipment	DGSC
5999	Miscellaneous Electrical and Electronic Components	DESC
6105	Motors, Electrical	DCSC
6110	Electrical Control Equipment	DCSC
6115	Generators and Generator Sets, Electrical	DCSC
6120	Transformers, Distribution and Power Station	DCSC
6145	Wire and Cable, Electrical	DISC
6150	Miscellaneous Electric Power and Distribution Equipment	DCSC
6210	Indoor and Outdoor Electric Lighting Fixtures	DGSC
6220	Electric Vehicular Lights and Fixtures	DGSC
6230	Electric Portable and Hand Lighting Equipment	DGSC
6240	Electric Lamps	DGSC
6250	Ballasts, Lampholders, and Starters	DGSC
6260	Nonelectrical Lighting Fixtures	DGSC
6350	Miscellaneous Alarm and Signal Systems	DCSC
6505 [2]	Drugs, Biologicals, and Official Reagents	DPSC
6510 [2]	Surgical Dressing Materials	DPSC
6515 [2]	Medical and Surgical Instruments, Equipment and Supplies	DPSC
6520 [2]	Dental Instruments, Equipment and Supplies	DPSC
6525 [2]	X-ray Equipment and Supplies: Medical, Dental, Veterinary	DPSC
6530 [2]	Hospital Furniture, Equipment, Utensils, and Supplies	DPSC
6532	Hospital and Surgical Clothing and Textile Special Purpose Items	DPSC
6540 [2]	Opticians' Instruments, Equipment, and Supplies	DPSC
6545 [2]	Medical Sets, Kits, and Outfits	DPSC
6630	Chemical Analysis Instruments	DPSC
6635	Physical Properties Testing Equipment	DCSC
6640	Laboratory Equipment and Supplies	DPSC
6655	Geophysical and Astronomical Instruments	DCSC
6670	Scales and Balances	DCSC
6675	Drafting, Surveying, and Mapping Instruments	DCSC
6680	Liquid and Gas Flow, Liquid Level and Mechanical Motion Measuring Instruments	DCSC
6750	Photographic Supplies	DGSC
6810 [3]	Chemicals	DFSC, DGSC
6820	Dyes	DGSC
6830	Gases: Compressed and Liquefied	DGSC
6840	Pest Control Agents and Disinfectants	DGSC
6850 [3]	Miscellaneous Chemicals Specialties	DFSC, DGSC
7105 P [4]	Household Furniture	DGSC
7110 P [4]	Office Furniture	DGSC
7125 P [4]	Cabinets, Lockers, Bins, and Shelving	DGSC
7195 P [4]	Miscellaneous Furniture and Fixtures	DGSC
7210	Household Furnishings	DPSC
7220	Floor Coverings	DGSC
7230	Draperies, Awnings, and Shades	DGSC
7240	Household and Commercial Utility Containers	DGSC

["P" after the FSC number indicates a partial FSC assignment]

Federal supply class code	Commodity	DSA center [1]
7290	Miscellaneous Household and Commercial Furnishings and Appliances	DGSC
7310	Food Cooking, Baking, and Warming Equipment	DGSC
7320	Kitchen Equipment and Appliances	DGSC
7330	Kitchen Hand Tools and Utensils	DGSC
7340	Cutlery and Flatware	DGSC
7350	Tableware	DGSC
7360	Sets, Kits, and Outfits: Food Preparation and Serving	DGSC
7420 P [4]	Accounting and Calculating Machines	DGSC
7430 P [4]	Typewriters and Office Type Composing Machines	DGSC
7460 P [4]	Visible Record Equipment	DGSC
7490 P [4]	Miscellaneous Office Machines	DGSC
7510 P [4]	Office Supplies	DGSC
7520 P [4]	Office Devices and Accessories	DGSC
7530 P [4]	Stationery and Record Forms	DGSC
7610	Books and Pamphlets	DCSC
7660	Sheet and Book Music	DCSC
7690	Miscellaneous Printed Matter	DCSC
7710	Musical Instruments	DGSC
7720	Musical Instrument Parts and Accessories	DGSC
7730	Phonographs, Radios, and Television Sets: Home Type	DGSC
7740	Phonograph Records	DGSC
7810	Athletic and Sporting Equipment	DGSC
7820	Games, Toys and Wheeled Goods	DGSC
7830	Recreational and Gymnastic Equipment	DGSC
7910	Floor Polishers and Vacuum Cleaners	DGSC
7920	Brooms, Brushes, Mops, and Sponges	DGSC
7930	Cleaning and Polishing Compounds and Preparations	DGSC
8010 P [5]	Paints, Dopes, Varnishes, and Related Products	DISC
8020 P [5]	Paint and Artists' Brushes	DISC
8030 P [5]	Preservative and Sealing Compounds	DISC
8040 P [5]	Adhesives	DISC
8105	Bags and Sacks	DGSC
8110	Drums and Cans	DGSC
8115	Boxes, Cartons, and Crates	DGSC
8120	Commercial and Industrial Gas Cylinders	DGSC
8125	Bottles and Jars	DGSC
8135	Packaging and Packing Bulk Materials	DGSC
8305	Textile Fabrics (FSC 8305 does not include laminated cloth used exclusively in the repair of lighter than air envelopes)	DPSC
8310	Yarn and Thread	DPSC
8315	Notions and Apparel Findings (FSC 8315 does not include coated cloth tape used exclusively in the repair of lighter than air envelopes)	DPSC
8320	Padding and Stuffing Materials	DPSC
8325	Fur Materials	DPSC
8330	Leather	DPSC
8335	Shoe Findings and Soling Materials	DPSC
8340	Tents and Tarpaulins	DPSC
8345	Flags and Pennants	DPSC
8405	Outerwear, Men's	DPSC
8410	Outerwear, Women's	DPSC
8415	Clothing, Special Purpose (FSC 8415 includes all submarine clothing)	DPSC
8420	Underwear and Nightwear, Men's	DPSC
8425	Underwear and Nightwear, Women's	DPSC
8430	Footwear, Men's	DPSC
8435	Footwear, Women's	DPSC
8440	Hosiery, Handwear, and Clothing Accessories, Men's	DPSC
8445	Hosiery, Handwear, and Clothing Accessories, Women's	DPSC
8450	Children's and Infants' Apparel and Accessories	DPSC
8455	Badges and Insignia	DPSC
8460	Luggage	DPSC
8465	Individual Equipment	DPSC
8470	Armor, Personal	DPSC
8475	Specialized Flight Clothing and Accessories	DPSC
8510	Perfumes, Toilet Preparations, and Powders	DGSC
8520	Toilet Soap, Shaving Preparations, and Dentifrices	DGSC
8530	Personal Toiletry Articles	DGSC
8540	Toiletry Paper Products	DGSC
8905 [2]	Meat, Poultry, and Fish	DPSC
8910 [2]	Dairy Foods and Eggs	DPSC
8915 [2]	Fruits and Vegetables	DPSC
8920 [2]	Bakery and Cereal Products	DPSC
8925 [2]	Sugar, Confectionery, and Nuts	DPSC
8930 [2]	Jams, Jellies, and Preserves	DPSC

See footnotes at end of table.

["P" after the FSC number indicates a partial FSC assignment]

Federal supply class code	Commodity	DSA center [4]
8935 [5]	Soups and Bouillons	DPSC
8940 [5]	Special Dietary Foods and Food Specialty Preparations	DPSC
8945 [5]	Food Oils and Fats	DPSC
8950 [5]	Condiments and Related Products	DPSC
8955 [5]	Coffee, Tea, and Cocoa	DPSC
8960 [5]	Beverages, Nonalcoholic	DPSC
8970 [5]	Composite Food Packages	DPSC
8975 [5]	Tobacco Products	DPSC
9110	Fuels, Solid	DFSC
9130	Liquid Propellants and Fuels, Petroleum Base	DFSC
9140	Fuel Oils	DFSC
9150	Oils and Greases: Cutting, Lubricating, and Hydraulic	DFSC
9160	Miscellaneous Waxes, Oils, and Fats	DFSC
9310	Paper and Paperboard	DGSC
9320	Rubber Fabricated Materials	DGSC
9330	Plastics Fabricated Materials	DGSC
9340	Glass Fabricated Materials	DGSC
9350	Refractories and Fire Surfacing Materials	DGSC
9360	Miscellaneous Fabricated Nonmetallic Materials	DGSC
9420 P	Fibers: Vegetable, Animal and Synthetic. This partial FSC assignment applies only to raw cotton and raw wool.	DPSC
9430 P	Miscellaneous Crude Animal Products, Inedible. This partial FSC assignment applies only to crude hides.	DPSC
9505	Wire, Nonelectrical, Iron and Steel	DISC
9510	Bars and Rods, Iron and Steel	DISC
9515	Plate, Sheet, and Strip: Iron and Steel	DISC
9520	Structural Shapes, Iron and Steel	DISC
9525	Wire, Nonelectrical, Nonferrous Base Metal	DISC
9530	Bars and Rods, Nonferrous Base Metal	DISC
9535	Plate, Sheet, Strip, and Foil: Nonferrous Base Metal	DISC
9540	Structural Shapes, Nonferrous Base Metal	DISC
9545	Plate, Sheet, Strip, Foil and Wire: Precious Metal	DISC
9620 P	Minerals, Natural and Synthetic. This partial FSC assignment applies only to Crude Petroleum and crude shale oil.	DFSC
9905	Signs, Advertising Displays, and Identification Plates	DGSC
9910	Jewelry	DGSC
9915	Collectors' Items	DGSC
9920	Smokers' Articles and Matches	DGSC
9925	Ecclesiastical Equipment, Furnishings, and Supplies	DGSC
9930	Memorials, Cemeterial and Mortuary Equipment and Supplies	DGSC
9999	Miscellaneous Items	DGSC

[1] These assignments do not apply to items retained by the Military Services for management and purchase. They also do not apply to items decentralized by the Center Commander, i.e., designated for procurement from the General Services Administration or by each Military Department. This note does not apply to FSG 51, FSC 5210, FSG 80, and FSC 2510, 2520, 2530, 2540, 2590, 2610, 2630, 2640, 2805, 2910, 2920, 2930, 2940, 2990, and 4210 (See Notes 2 and 5 below).

[2] This assignment does not apply to items retained by the Military Services for management and purchase. It also does not apply to (i) items decentralized by the DSA Center Commander, i.e., designated for procurement from the General Services Administration or by each Military Department, and (ii) repair parts peculiar to combat and tactical vehicles in FSC 2510, 2520, 2530, 2540, 2590, 2610, 2630, 2640, 2805, 2910, 2920, 2930, 2940, 2990, which are assigned for coordinated procurement to the Department of the Army.

[3] This partial FSC assignment does not apply to Fire Fighting equipment developed by or under the sponsorship of a Military Department. The procurement responsibility for such equipment is assigned to the Department which developed or sponsored its development.

[4] This partial FSC assignment does not apply to items retained by the Military Services or management and purchase. It also does not apply to items to be purchased for DoD by the General Services Administration in accordance with DoD/GSA Memorandum of Understanding, dated June 7, 1963, subject: "Procurement and Management of Hand Tools (FSG 51 and FSC 5210) and Paint (FSG 80)."

[5] The Defense Supply Agency has procurement responsibility for all the items in the Classes of FS Group 65. In addition, DSA has procurement responsibility for all equipment and supplies related to the medical, dental, veterinary professions in Nongroup 65 Classes where the military medical services have the sole or prime interest in such items. The specific item coverage of these Nongroup 65 items is published in the DoD Section of the Federal Supply Catalog for Medical Material C3-1 through C3-12, inclusive.

[6] This partial FSC assignment does not apply to items assigned under interagency purchase agreement to the General Services Administration and items covered by Footnote[4] above. At any given time it includes those items approved by the Office of the Secretary of Defense for DoD purchase.

[7] This assignment includes Health and Comfort Items listed in AR 700-23. It also includes resale items for commissary stores (including brand name items).

[8] DSA Centers are identified as follows: DCSC, Defense Construction Supply Center; DESC, Defense Electronics Supply Center; DFSC, Defense Fuel Supply Center; DGSC, Defense General Supply Center; DISC, Defense Industrial Supply Center; DPSC, Defense Personnel Support Center.

[9] DFSC is responsible for procurement of only petroleum base items in FSC 6810 and FSC 6850.

§ 5.1201–7 General Services Administration.[1] [2]

["P" after the FSC number indicates a partial FSC assignment]

Federal supply class code	Commodity
5110 P	Hand Tools, Edged, Nonpowered.
5120 P	Hand Tools, Nonedged, Nonpowered.
5130 P	Hand Tools, Power Driven.
5133 P	Drill Bits, Counterbores, and Countersinks: Hand and Machine.
5136 P	Taps, Dies, and Collets: Hand and Machine.
5140 P	Tool and Hardware Boxes.
5180 P	Sets, Kits, and Outfits of Hand Tools.
5210 P	Measuring Tools, Craftsmen's.—The above eight partial FSC assignments apply to items to be purchased for DoD by the General Services Administration in accordance with DoD/GSA Memorandum of Understanding, dated June 7, 1963, subject: "Procurement and Management of Hand Tools (FSG 51 and FSC 5210) and Paint (FSG 80)."
7105 P [3]	Household Furniture.—This partial FSC assignment applies to easy chairs, davenports, settees, smoking stands and wardrobes.
7110 P [3]	Office Furniture.—This partial FSC assignment applies to: Address Plate Filing Cabinet; Address Plate Filing Cabinet Bases; Address Plate Filing Cabinet Tops; Bases, Filing Cabinet; Bases, Sectional Bookcase; Bookcases, Sectional; Chairs, Straight, Office Type; Chairs, Swivel, Office Type; Chairs, Typist; Desks, Typist; Dictionary Holders; Drawers, Filing Cabinet; Filing Cabinets—Including insulated fire resistant and combination lock types. Filing Trays, Cabinet; Stands, Adding Machine; Stands, Dictionary; Stands, Typewriter; Stools, Revolving, Office Type; Stools, Straight, Office Type; Tables, Conference; Tables, Office; Tops, Filing Cabinet; Tops, Sectional Bookcase.
7125 P [3]	Cabinets, Lockers, Bins, and Shelving.—This partial FSC assignment applies to storage and supply cabinets.
7195 P [3]	Miscellaneous Furniture and Fixtures.—This partial FSC assignment applies to bulletin boards and costumers.
7410	Punched Card System Machines.
7420	Accounting and Calculating Machines.
7430 P	Typewriters and Office Type Composing Machines.—This partial FSC assignment does not apply to machines controlled by the Congressional Joint Committee on Printing.
7450	Office-Type Sound Recording and Reproducing Machines.
7460	Visible Records Equipment.
7490 P	Miscellaneous Office Machines.—This partial FSC assignment does not apply to equipment controlled by the Congressional Joint Committee on Printing.
7510 P	Office Supplies.—This partial FSC assignment does not apply to Albums, scrapbook, and those Office Supplies, including special inks, when DoD requirements of such items are procured through Government Printing Office channels.
7520 P	Office Devices and Accessories.—This partial FSC assignment does not apply to Seals, hand impression, and those Office Devices and Accessories when DoD requirements of such items are procured through Government Printing Office channels.
7530 P	Stationery and Record Forms.—This partial FSC assignment does not apply to Stationery and Record Forms when DoD requirements of such items are procured through Government Printing Office channels including those items covered by term contracts issued by GPO for tabulating cards and marginally punched continuous forms.
8010 P	Paints, Dopes, Varnishes, and Related Products.
8020 P	Paint and Artists' Brushes.
8030 P	Preservatives and sealing compounds.

See footnotes at end of table.

Federal supply class code	*Commodity*
8040 P	Adhesives.—The above four partial FSC assignments apply to items to be purchased for DoD by the General Services Administration in accordance with DoD/GSA Memorandum of Understanding, dated 7 June 1963, subject: "Procurement and Management of Hand Tools (FSC 51 and FSC 5210) and Paint (FSC 80)."

FOOTNOTES

[1] In addition to the Classes listed herein, the General Services Administration is the procurement source for items in all Classes assigned to DSA when items within these Classes are so designated by DSA.

[2] These interagency assignments do not apply to items as listed. Also excluded are any items designated by the Office of the Secretary of Defense for purchase by the Department of Defense.

[3] Assignments under FSC 7105, 7110, 7125, and 7195 do not apply to Built-in Furniture; Shipboard Furniture; Special Items for Military Field Use; and Modified Designs for Special Technical or Special Clerical Work.

PART 6—FOREIGN PURCHASES

7. The heading of Subpart D is revised; and §§ 6.401–5 and 6.403 are revised, as follows:

Subpart D—Purchases From Communist Areas

* * * * *

§ 6.401–5 Supplies from China, North Korea, North Vietnam, or Cuba.

All supplies, however processed, which are or were located in or transported from or through China (as described in § 6.401–2), North Korea, North Vietnam, or Cuba shall be presumed to have originated from communist (Chinese) areas, and shall not be acquired for public use unless such supplies have been lawfully imported into the United States, its possessions, or Puerto Rico.

§ 6.403 Contract clause.

(a) Except as provided in paragraph (b) of this section, the following clause shall be included in all contracts for supplies, services, or construction, where acceptance is to take place outside the United States, its possessions, and Puerto Rico.

COMMUNIST AREAS (OCTOBER 1966)

(a) Unless he first obtains the written approval of the Contracting Officer, the Contractor shall not acquire for use in the performance of this contract:

(i) Any supplies or services originating from sources within the following communist areas:

[Here include list from 6–401.2]

(ii) Any supplies, however processed, which are or were located in or transported from or through China (as described in (i) above), North Korea, North Vietnam, or Cuba;

(iii) Any of the following supplies, if of foreign origin and however processed, unless acquired directly from the countries indicated for particular supplies:

[Here include list from 6–401.3]

(iv) Any of the following supplies, however processed, which are or were located in or transported from or through Hong Kong, Macao, or any communist area listed in (i) above:

[Here include list from 6–401.4]

(b) The Contractor agrees to insert the provisions of this clause, including this paragraph (b), in all subcontracts hereunder.

The contracting officer may omit subparagraphs (iii) or (iv) or both from the clause above, or particular supplies from the lists of supplies thereunder, to the extent that he determines that such subparagraphs or particular supplies are clearly not applicable to the end product or services contracted for.

(b) The requirements of paragraph (a) of this section do not apply to purchase orders for small purchases (see Subpart F, Part 3 of this section) where there is other reasonable assurance of compliance with the policy set forth in this subpart.

PART 7—CONTRACT CLAUSES

8. Sections 7.103–15, 7.104–1(a), and 7.104–9 are revised; §§ 7.104–47 and 7.104–48 are revised; and new §§ 7.104–60 and 7.104–61 are added, as follows:

§ 7.103–15 Communist areas.

In accordance with the requirements of § 6.403 of this chapter, insert the contract clause set forth therein.

§ 7.104–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of § 18.703 of this chapter, insert the clause entitled:

"Davis-Bacon Act."
"Contract Work Hours Standards Act—Overtime Compensation."
"Apprentices."
"Payrolls and Basic Records."
"Compliance With Copeland Regulations."
"Withholding of Funds."
"Subcontracts."
"Contract Termination—Debarment."
"Employee Compensation—Cape Kennedy, Patrick Air Force Base, and Merritt Island Launch Area."

* * * * *

§ 7.104–9 Rights in data.

In accordance with the requirements of Subpart B, Part 9 of this chapter, insert one of the contract clauses set forth in §§ 9.203(b), 9.204–2, or 9.206, as appropriate. When the contract clause in § 9.203(b) is used, the appropriate additional provisions shall be added in accordance with the requirements of § 9.203; and the additional provisions in § 9.204–1 may be added under the circumstances set forth in § 9.204–1. When the clause in § 9.203(b) is used, the appropriate "Technical Data—Withholding of Payment" clause in § 9.207 shall also be used.

§ 7.104–47 Multiyear procurement.

In accordance with the requirements of § 1.322–5 of this chapter, insert the contract clauses set forth therein.

§ 7.104–48 New material.

In accordance with the requirements of § 1.1208 of this chapter, insert a clause such as is set forth therein.

§ 7.104–60 Contractor-furnished returnable gas cylinders and other containers.

Insert the following clause in contracts involving the purchase of gas in contractor-furnished returnable cylinders where the contractor retains title to the cylinders. The clause may be used, with appropriate modification, in contracts for other supplies involving reels, spools, drums, carboys, liquid petroleum gas containers, or other reusable containers, where the contractor is to retain title to the containers.

RETURNABLE GAS CYLINDERS (OCTOBER 1966)

(a) Cylinders shall remain the property of the Contractor but will be loaned without charge to the Government for a period of thirty (30) days[2] after the date of delivery of the cylinders to the f.o.b. point specified in the contract. Beginning with the first day after the expiration of the thirty (30) day loan period to and including the day the cylinders are delivered to the Contractor where the original delivery was f.o.b. origin, or to and including the date the cylinders are delivered or are made available for delivery to the Contractor's designated carrier in the case where the original delivery was f.o.b. destination, the Government shall pay the Contractor a rental of _____ dollars ($_____) per cylinder per day, regardless of type or capacity.

(b) This rental charge will be computed separately for cylinders of differing types, sizes, and capacities, and for each point of delivery named in the contract. A credit of thirty (30) cylinder days will accrue to the Government for each cylinder, regardless of type or capacity, delivered by the Contractor. A debit of one (1) cylinder day will accrue to the Government for each cylinder for each day after delivery to the f.o.b. point specified in this contract. At the end of the contract, if the total number of debits exceeds the total number of credits, rental shall be charged for the difference. If the total number of credits equals or exceeds the total number of debits, no rental charges will be made for the cylinders. No rental shall accrue to the Contractor in excess of the replacement value per cylinder specified in (c) below.

(c) For each cylinder lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value as follows, less the allocable rental paid therefor:

(i) oxygen cylinders of 100–110 cubic foot capacity $_____;

(ii) oxygen cylinders of 200–220 cubic foot capacity $_____;

(iii) acetylene cylinders of 100–150 cubic foot capacity $_____; and

(iv) acetylene cylinders of 230–300 cubic foot capacity $_____.

(d) Cylinders lost, or damaged beyond repair, and paid for by the Government shall become the property of the Government, subject to the following: If any lost cylinder is located within _____ (insert period of time) after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government an amount equal to the replacement value, less rental computed in accordance with (a) above, beginning at the expiration of the thirty (30) day loan period specified in (a) above, and continuing to the date on which the cylinder was delivered to the Contractor.

[2] The time period may be modified to comply with the customary commercial practice for the particular type of container being rented.

§ 7.104–61 Frequency authorization.

Any contract which calls for developing, producing, constructing, testing, or operating a device for which a radio frequency authorization is required shall contain the following provision:

FREQUENCY AUTHORIZATION (OCTOBER 1966)

(a) Authorization of radio frequencies required in support of this contract shall be obtained through the Contracting Officer by the Contractor or Subcontractor in need thereof. Frequency management procedures prescribed in the Schedule of this contract shall be followed in obtaining radio frequency authorization.

(b) For any experimental, developmental or operational equipment for which the appropriate frequency allocation has not been made, the Contractor or Subcontractor shall provide the technical operating characteristics of the proposed electromagnetic radiating device to the Contracting Officer during the initial planning, experimental, or developmental phases of contractual performance. DD Form 1494, "Application for Frequency Allocation," shall be used for this purpose and shall be prepared in accordance with instructions contained on the form.

(c) This clause including this paragraph (c), shall be included in all subcontracts which call for developing, producing, testing, or operating a device for which a radio frequency authorization is required.

9. New § 7.105–8 is added; §§ 7.105–9 and 7.105–10 are revoked; and §§ 7.203–2, 7.203–3, and 7.203–25 are revised, as follows:

§ 7.105–8 Supply warranty.

In accordance with § 1.324 of this chapter, an appropriate supply warranty clause may be inserted.

§ 7.105–9 Taxes where foreign agreements do not apply. [Revoked]

§ 7.105–10 Supply warranty. [Revoked]

§ 7.203–2 Changes.

CHANGES (OCTOBER 1966)

(a) 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, where supplies to be furnished are to be specially manufactured for the Government in accordance therewith;

(ii) Method of shipment or packing; and

(iii) Place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provision of this contract, an equitable adjustment shall be made:

(i) In the estimated cost or delivery schedule, or both;

(ii) In the amount of any fixed fee to be paid to the Contractor; and

(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 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, except as provided in paragraph (c) below, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(c) Notwithstanding the provisions of paragraph (a) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance thereof, shall not be increased or deemed to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until such modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the clause of this contract entitled "Limitation of Cost" or "Limitation of Funds."

In the foregoing clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted may be varied in accordance with Departmental procedures. In accordance with 10 U.S.C. 2306(f), prior to the pricing of any change order that is expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the contracting officer shall require the contractor to furnish a Certificate of Current Cost or Pricing Data (see § 3.807–4) and shall assure that the contract includes or is modified to include a defective pricing data clause (see § 7.104–29).

§ 7.203–3 Limitation of cost or funds.

(a) The following clause shall be used in all fully funded cost-reimbursement type supply contracts.

LIMITATION OF COST (OCTOBER 1966)

(a) It is estimated that the total cost to the Government for the performance of this contract, exclusive of any fee, will not exceed the estimated cost set forth in the Schedule and the Contractor agrees to use his 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 he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) 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 for the performance of this contract, exclusive of any fee, will be greater or substantially less than the then estimated cost hereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving his revised estimate of such total cost for the performance of this contract.

(b) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, 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 (including actions under the Termination clause) or otherwise 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. No notice, communication, or representation in any other form or from any person other than the Contracting Officer shall affect the estimated cost of this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the estimated cost set forth in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination. 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 the estimated cost prior to such increase shall be allowable to the same extent as if such costs had been incurred after the increase; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(c) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost set forth in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the estimated cost.

(d) In the event this contract is terminated or the estimated cost not increased, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(b) The following clause shall be used in all cost-reimbursement type supply contracts which are to be incrementally funded.

LIMITATION OF FUNDS (OCTOBER 1966)

(a) It is estimated that the cost to the Government for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost.

(b) The amount presently available for payment and allotted to this contract, the items covered thereby, and the period of performance which it is estimated the allotted amount will cover, are specified in the Schedule. It is contemplated that from time to time additional funds will be allotted to this contract up to the full estimated cost set forth in the Schedule, exclusive of any fee. The Contractor agrees to perform or have performed work on this contract up to the point at which the total amount paid and payable by the Government pursuant to the terms of this contract approximates but does not exceed the total actually allotted to the contract.

(c) If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the total amount then allotted to the contract, the Contractor shall notify the Contracting Officer in writing to that effect. The notice shall state the estimated amount of additional funds required to continue performance for the period set forth in the Schedule. Sixty (60) days prior to the end of the period specified in the Schedule, the Contractor will advise the Contracting Officer in writing as to the estimated amount of additional funds, if any, that will be

required for the timely performance of the work under the contract or for such further period as may be specified in the Schedule or otherwise agreed to by the parties. If, after such notification additional funds are not allotted by the end of the period set forth in the Schedule or an agreed date substituted therefor, the Contracting Officer will, upon written request by the Contractor, terminate this contract pursuant to the provisions of the Termination clause on such date. If the Contractor, in the exercise of his reasonable judgment, estimates that the funds available will allow him to continue to discharge his obligations hereunder for a period extending beyond such date, he shall specify the later date in his request, and the Contracting Officer, in his discretion, may terminate this contract on that later date.

(d) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the total amount from time to time allotted to the contract, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the amount allotted to the contract, unless and until the Contracting Officer has notified the Contractor in writing that such allotment amount has been increased and has specified in such notice an increased amount constituting the total amount then allotted to the contract. To the extent the amount allotted exceeds the estimated cost set forth in the Schedule, such estimated cost shall be correspondingly increased. No notice, communication, or representation in any other form or from any person other than the Contracting Officer shall affect the amount allotted to this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the total amount then allotted to the contract, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the amount allotted to the contract has been increased, any costs incurred by the Contractor in excess of the amount previously allotted shall be allowable to the same extent as if such costs had been incurred after such increase in the amount allotted; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(e) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the amount allotted in the Schedule in the absence of a statement in the change order, or other contractual modification, increasing the amount allotted.

(f) Nothing in this clause shall affect the right of the Government to terminate this contract. In the event this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(g) In the event that sufficient funds are not allotted to this contract to allow completion of the work contemplated by this contract, the Contractor shall be entitled to that percentage of the fee set forth in the Schedule equivalent to the percentage of completion of the work contemplated by this contract.

(c) In the foregoing clauses, the period of "sixty (60) days" and the percentage of "seventy-five percent (75%)" may be varied from thirty (30) to ninety (90) days and seventy-five percent (75%) to eighty-five percent (85%). In supply contracts which provide for cost sharing, one of the clauses set forth in § 7.402–2 shall be used.

§ 7.203–25 Communist areas.

In accordance with the requirements of § 6.403, insert the contract clause set forth therein.

10. Sections 7.204–1(a) and 7.204–9 are revised; new § 7.204–26 is added; § 7.204–34 is revised; § 7.205–8 is revoked; and §§ 7.302–23 and 7.302–24 are revised, as follows:

§ 7.204–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of § 18.703 of this chapter, insert the clauses entitled:

"Davis-Bacon Act."
"Contract Work Hours Standards Act—Overtime Compensation."
"Apprentices."
"Payrolls and Basic Records."
"Compliance with Copeland Regulations."
"Withholding of Funds."
"Subcontracts."
"Contract Termination—Debarment."
"Employee Compensation—Cape Kennedy, Patrick Air Force Base, and Merritt Island Launch Area."

* * * * *

§ 7.204–9 Rights in data.

In accordance with the requirements of Subpart B, Part 9 of this chapter, insert one of the contract clauses set forth in §§ 9.203(b), 9.204–2, or 9.206, as appropriate. When the contract clause in § 9.203(b) is used, the appropriate additional provisions shall be added in accordance with the requirements of § 9.203; and the additional provision in § 9.204–1 may be added under the circumstances set forth in that section. When the clause in § 9.203(b) is used, the appropriate "Technical Data—Withholding of Payment" clause in § 9.207 also shall be used.

§ 7.204–26 Frequency authorization.

In accordance with the requirements of § 7.104–61, insert the clause set forth therein.

§ 7.204–34 Multiyear procurement.

In accordance with the requirements of § 1.322–5, of this chapter, insert the contract clauses set forth therein.

§ 7.205–8 Taxes where foreign agreements do not apply. [Revoked]

§ 7.302–23 Patent rights.

In accordance with the requirements of § 9.107 of this chapter, insert the appropriate contract clause set forth therein with additional or alternate paragraphs as prescribed therein. However, in the case of contracts awarded on the basis of no profit, the percentage amount specified to be withheld under paragraph (g) of the clause set forth in § 9.107–5(a) of this chapter or paragraph (f) of the clause set forth in § 9.107–5(b) of this chapter may be changed from "five percent (5%)" in all four places where this appears to "one percent (1%)." In contracts with educational institutions and nonprofit organizations, paragraphs (g) and (f) of the clauses set forth in § 9.107–5 (a) and (b) of this chapter, respectively, may be omitted.

§ 7.302–24 Basic data clause.

In accordance with requirements of § 9.202 of this chapter, insert the clause set forth in § 9.203(b) of this chapter with appropriate additional or alternate paragraphs as prescribed by the instructions in §§ 9.203 and 9.204–1 of this chapter, and the appropriate "Technical Data—Withholding of Payment" clause as set forth in § 9.207 of this chapter.

11. Sections 7.303–1(a) and 7.303–8 are revised; new §§ 7.303–14, 7.303–44, and 7.304–6 are added; § 7.304–7 is revised; and §§ 7.304–8 and 7.304–9 are revoked, as follows:

§ 7.303–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of § 18.703, insert the clauses entitled:

"Davis-Bacon Act."
"Contract Work Hours Standards Act—Overtime Compensation."
"Apprentices."
"Payrolls and Basic Records."
"Compliance With Copeland Regulations."
"Withholding of Funds."
"Subcontracts."
"Contract Termination—Debarment."
"Employee Compensation—Cape Kennedy, Patrick Air Force Base, and Merritt Island Launch Area."

* * * * *

§ 7.303–8 Communist areas.

In accordance with the requirements of § 6.403, insert the contract clause set forth therein.

§ 7.303–14 Frequency authorization.

In accordance with the requirements of § 7.104–61, insert the clause set forth therein.

§ 7.303–44 Care of laboratory animals.

In furtherance of the Department of Defense policy that all aspects of investigative programs involving the use of experimental or laboratory animals be humanely conducted in accordance with recognized principles, the following clause shall be included in all contracts which may involve the use of such animals.

CARE OF LABORATORY ANIMALS (OCTOBER 1966)

(a) In the care of any experimental animals used in the performance of this contract, the Contractor shall adhere to the principles enunciated in the "Guide for Laboratory Animal Facilities and Care" prepared by the Institute of Laboratory Animal Resources, National Academy of Sciences—National Research Council.

(b) The Contractor shall obtain necessary copies of the guide referenced in (a) above from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 7.304–6 Reports of work.

In accordance with the instructions in § 7.404–6 the contract clause set forth therein may be inserted.

§ 7.304–7 Liquidated damages.

The contract clause set forth in § 7.105–5 may be inserted pursuant to the provisions of § 1.310 of this chapter.

§ 7.304–8 Liquidated damages. [Revoked]

§ 7.304–9 Taxes where foreign agreements do not apply. [Revoked]

12. Sections 7.402–2, 7.402–22, 7.403–1(a), and 7.403–8 are revised; new §§ 7.403–39 and 7.403–40 are added; § 7.404–1 is revised; and § 7.404–7 is revoked, as follows:

§ 7.402–2 Limitation of cost or funds.

(a) The following clause shall be used in fully funded cost-reimbursement type research and development contracts which do not provide for cost-sharing. The words "exclusive of any fee", occurring twice in paragraph (a) of the clause, may be deleted in any contract not providing for the payment of a fee.

LIMITATION OF COST (OCTOBER 1966)

(a) It is estimated that the total cost to the Government for the performance of this contract, exclusive of any fee, will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his 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 cost which he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated cost set forth in the Schedule, or if, at any time, the Contractor has reason to believe that the total cost to the Government for the performance of this contract, exclusive of any fee, will be greater or substantially less than the then estimated cost hereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, 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 (including actions under the Termination clause) or otherwise 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. No notice, communication or representation in any other form or from any person other than the Contracting Officer shall affect the estimated cost of this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the estimated cost set forth in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination. 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 the estimated cost prior to such increase shall be allowable to the same extent as if such costs had been incurred after the increase; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(c) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost set forth in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the estimated cost.

(d) In the event this contract is terminated or the estimated cost not increased the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(b) The following clause shall be used in fully funded cost-reimbursement type research and development contracts which provide for cost-sharing. The contract schedule shall include a cost-sharing formula agreed upon by the parties prior to execution of the contract. This formula shall provide for the ratio of cost-sharing with regard to both the originally established total estimated cost and any increase thereto, pursuant to (b) of the clause.

LIMITATION OF COST (COST-SHARING) (OCTOBER 1966)

(a) It is estimated that the cost to the Government for the performance of this contract will not exceed the estimated cost to the Government set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost to the Government plus the share of the cost of performance agreed to be borne by the Contractor, as set forth in the Schedule. If, at any time, the Contractor has reason to believe that the costs which he expects to be incurred in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated total cost to the Government and to the Contractor then set forth in the Schedule, or if, at any time, the Contractor has reason to believe that the total cost for the performance of this contract will be greater or substantially less than the then estimated total cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving his revised estimate of such total cost for the performance of this contract.

(b) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost to the Government set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Terminations clause) or otherwise to incur costs in excess of the estimated total cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated total cost has been increased and shall have specified in such notice a revised estimated total cost which shall thereupon constitute the estimated total cost of performance of this contract. The increase in such estimated total cost shall be allocated in accordance with the formula set forth in the Schedule governing such increases. No notice, communication or representation in any other form or from any person other than the Contracting Officer shall affect the estimated cost to the Government of this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the estimated cost to the Government set forth in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the estimated total cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of the estimated total cost prior to such increase shall be allowable to the same extent and in the same percentage as if such costs had been incurred after the increase; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(c) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost to the Government set forth in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the estimated cost.

(d) In the event this contract is terminated or the estimated cost not increased, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(c) The following clause shall be used in incrementally funded costs-reimbursement type research and development contracts which do not provide for cost sharing.

LIMITATION OF FUNDS (OCTOBER 1966)

(a) It is estimated that the cost to the Government for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost.

(b) The amount presently available for payment and allotted to this contract, the items covered thereby, and the period of performance which it is estimated the allotted amount will cover, are specified in the Schedule. It is contemplated that from time to time additional funds will be allotted to this contract up to the full estimated cost set forth in the Schedule, exclusive of any fee. The Contractor agrees to perform or have performed work on this contract up to the point at which the total amount paid and payable by the Government pursuant to the terms of this contract approximates but does not exceed the total amount actually allotted to the contract.

(c) If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the total amount then allotted to the contract, the Contractor shall notify the Contracting Officer in writing to that effect. The notice shall state the estimated amount of additional funds required to continue performance for the period set forth in the Schedule. Sixty (60) days prior to the end of the period specified in the Schedule the Contractor will advise the Contracting Officer in writing as to the estimated amount of additional funds, if any, that will be required for the timely performance of the work under the contract or for such further period as may be specified in the Schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the Schedule or an agreed date substituted therefor, the

Contracting Officer will, upon written request by the Contractor, terminate this contract pursuant to the provisons of the Termination clause on such date. If the Contractor, in the exercise of his reasonable judgment, estimates that the funds available will allow him to continue to discharge his obligations hereunder for a period extending beyond such date, he shall specify the later date in his request and the Contracting Officer, in his discretion, may terminate this contract on that later date.

(d) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the total amount from time to time allotted to the contract, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the amount allotted to the contract, unless and until the Contracting Officer has notified the Contractor in writing that such allotted amount has been increased and has specified in such notice an increased amount constituting the total amount then allotted to the contract. To the extent the amount allotted exceeds the estimated cost set forth in the Schedule, such estimated cost shall be correspondingly increased. No notice, communication or representation in any other form or from any person other than the Contracting Officer shall affect the amount allotted to this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the total amount then allotted to the contract, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the amount allotted to the contract has been increased, any costs incurred by the Contractor in excess of the amount previously allotted shall be allowable to the same extent as if such costs had been incurred after such increase in the amount allotted; *unless* the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(e) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the amount allotted in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the amount allotted.

(f) Nothing in this clause shall affect the right of the Government to terminate this contract. In the event this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(g) In the event that sufficient funds are not allotted to this contract to allow completion of the work contemplated by this contract, the Contractor shall be entitled to that percentage of the fee set forth in the Schedule equivalent to the percentage of completion of the work contemplated by this contract.

(d) The following clause shall be used in incrementally funded cost-reimbursement type research and development contracts which provide for cost-sharing.

LIMITATION OF FUNDS (COST-SHARING) (OCTOBER 1966)

(a) It is estimated that the cost to the Government for the performance of this contract will not exceed the estimated cost to the Government set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost to the Government plus the share of the cost of performance agreed to be borne by the Contractor, as set forth in the Schedule.

(b) The amount presently available for payment by the Government and allotted to this contract, the items covered thereby, the Government's share of the cost thereof, and the period of performance which it is estimated the allotted amount will cover, are specified in the Schedule. It is contemplated that from time to time additional funds will be allotted to this contract up to the full estimated cost to the Government set forth in the Schedule, exclusive of any fixed fee. The Contractor agrees to perform or have performed work on this contract up to the point at which the total amount paid and payable by the Government pursuant to the terms of this contract approximates but does not exceed the total amount actually allotted by the Government to the contract.

(c) If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the total of the amount then allotted to the contract by the Government plus the Contractor's corresponding share, the Contractor shall notify the Contracting Officer in writing to that effect. The notice shall state the estimated amount of additional funds required to continue performance for the period set forth in the Schedule. Sixty (60) days prior to the end of the period specified in the Schedule the Contractor will advise the Contracting Officer in writing as to the estimated amount of additional funds, if any, that will be required for the timely performance of the work under the contract or for such further period as may be specified in the Schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the Schedule or an agreed date substituted therefor, the Contracting Officer will, upon written request by the Contractor, terminate this contract pursuant to the provisions of the Termination clause on such date. If the Contractor, in the exercise of his reasonable judgment, estimates that the funds available will allow him to continue to discharge his obligations hereunder for a period extending beyond such date, he shall specify the later date in his request, and the Contracting Officer, in his discretion, may terminate on that later date.

(d) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the amount from time to time allotted by the Government to the contract, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the total of the amount then allotted to the contract by the Government plus the Contractor's corresponding share, unless and until the Contracting Officer has notified the Contractor in writing that the amount allotted by the Government has been increased and has specified in such notice an increased amount constituting the total amount then allotted by the Government to the contract. To the extent the total of the amount allotted by the Government plus the Contractor's corresponding share exceeds the estimated cost set forth in the Schedule, such estimated cost shall be correspondingly increased. Any increase in such estimated cost shall be allocated in accordance with the formula set forth in the Schedule governing such increases. No notice, communication or representation in any other form or from any person other than the Contracting Officer shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the total amount then allotted by the Government to the contract, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the amount allotted by the Government to the contract has been increased, any costs incurred by the Contractor in excess of the total of the amount previously allotted by the Government plus the Contractor's corresponding share shall be allowable to the same extent and in the same percentage as if such costs had been incurred after such increase in the amount allotted; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(e) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the amount allotted by the Government in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the amount allotted.

(f) Nothing in this clause shall affect the right of the Government to terminate this contract. In the event this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(g) In the event that sufficient funds are not allotted to this contract by the Government to allow completion of the work contemplated by this contract, the Contractor shall be entitled to that percentage of the fee set forth in the Schedule equivalent to the percentage of completion of the work contemplated by this contract.

(e) In the foregoing clauses, the period of "sixty (60) days" and the percentage of "seventy-five percent (75%)" may be varied from thirty (30) to ninety (90) days and seventy-five percent (75%) to eighty-five percent (85%). The words "Task Order" or other appropriate designation may be substituted for the word "Schedule" wherever that word appears in the clauses. Where a contract is of the installment type, the clauses may be appropriately modified.

§ 7.402–22 Patent rights.

In accordance with the requirements of § 9.107 of this chapter, insert the appropriate contract clause set forth therein with additional or alternate paragraphs as prescribed therein. However, in the case of contracts without fee, the percentage amount specified to be withheld under paragraph (g) of the clause set forth in § 9.107–5(a) of this chapter or paragraph (f) of the clause set forth in § 9.107–5(b) of this chapter may be changed from "five percent (5%)" in all four places where this appears, to "one percent (1%)." In contracts with educational institutions and in contracts without fee with nonprofit organizations, paragraphs (g) and (f) of the clauses set forth in § 9.107–5 (a) and (b) of this chapter, respectively, may be omitted.

§ 7.403–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of § 18.703 of this chapter, insert the clauses entitled:

"Davis-Bacon Act."
"Contract Work Hours Standards Act—Overtime compensation."
"Apprentices."
"Payrolls and Basic Records."
"Compliance With Copeland Regulations."
"Withholding of Funds."
"Subcontracts."
"Contract Termination—Debarment."
"Employee Compensation—Cape Kennedy, Patrick Air Force Base, and Merritt Island Launch Area."

* * * * *

§ 7.403–8 Communist areas.

In accordance with the requirements of § 6.403 of this chapter, insert the contract clause set forth therein.

§ 7.403–39 Care of laboratory animals.

In accordance with the requirements of § 7.303–44, insert the clause set forth therein.

§ 7.403–40 Frequency authorization.

In accordance with the requirements of § 7.104–61, insert the clause set forth therein.

§ 7.404–1 Changes.

CHANGES (OCTOBER 1966)

(a) 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 estimated cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provision of this contract, an equitable adjustment shall be made:

(i) In the estimated cost or delivery schedule, or both;

(ii) In the amount of any fixed fee to be paid to the Contractor; and

(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 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, except as provided in paragraph (b) below, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(b) Notwithstanding the provisions of paragraph (a) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance thereof, shall not be increased or deemed to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until such modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the clause of this contract entitled "Limitation of Cost" or "Limitation of Funds."

In the foregoing clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted, may be varied in accordance with Departmental procedures. In accordance with 10 U.S.C. 2306(f), prior to the pricing of any change order that is expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the contracting officer shall require the contractor to furnish a Certificate of Current Cost or Pricing Data (see § 3.807–4 of this chapter) and shall assure that the contract includes or is modified to include a defective pricing data clause (see § 7.104–29).

§ 7.404–7 Taxes where foreign agreements do not apply. [Revoked]

13. Section 7.602–2 is revised; in § 7.602–7, the last sentence of paragraph (b) is revised; §§ 7.602–23, 7.602–37, 7.603–2, 7.603–13, 7.605–18, 7.607–14, and 7.702–46 are revised; and § 7.703–24 is revoked, as follows:

§ 7.602–2 Specifications and drawings.

SPECIFICATIONS AND DRAWINGS (JUNE 1964)

The Contractor shall keep on the work a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy either in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at his own risk and expense. The Contracting Officer shall furnish from time to time such detail drawings and other information as he may consider necessary, unless otherwise provided.

§ 7.602–7 Payments to contractor.

* * * * *

(b) * * * In computing the total contract amount, for the purposes of the preceding sentence, the contract amount for any separate building, public work, or other division of the contract on which the price is stated separately in the contract and on which payment has been made in full, including retained percentage thereon under this clause shall be excluded.

§ 7.602–23 Labor standards provisions.

In accordance with § 18.703, insert the clauses entitled:

"Davis-Bacon Act."
"Contract Work Hours Standards Act—Overtime Compensation."
"Apprentices."
"Withholding of Funds."
"Payrolls and Basic Records."
"Compliance With Copeland Regulations."
"Subcontracts."
"Contract Termination—Debarment."
"Employee Compensation—Cape Kennedy, Patrick Air Force Base, and Merritt Island Launch Area."

§ 7.602–37 Subcontractors.

SUBCONTRACTORS (OCTOBER 1966)

Within 7 days after award of any subcontract either by himself or a subcontractor, the contractor shall deliver to the contracting officer a statement setting forth the name and address of the subcontractor and a summary description of the work subcontracted. The contractor shall at the same time furnish a statement signed by the subcontractor acknowledging the inclusion in his subcontract of the clauses of this contract entitled "Equal Opportunity," "Davis-Bacon Act," "Contract Work Hours Standards Act—Overtime Compensation," "Apprentices," "Payrolls and Basic Records," "Compliance with Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment." Nothing contained in this contract shall create any contractual relation between the subcontractor and the Government.

§ 7.603–2 Communist areas.

In accordance with § 6.403, insert the clause set forth therein.

§ 7.603–13 Taxes.

In accordance with the requirements of § 11.403–2 of this chapter, in contracts to be performed outside the United States, its possessions and Puerto Rico, insert one of the clauses set forth in paragraphs (a) and (b) thereof.

§ 7.605–18 Labor.

In accordance with the requirements of § 18.703 of this chapter, insert the appropriate clauses set forth therein.

§ 7.607–14 Contract Work Hours Standards Act—overtime compensation.

Insert the clause set forth in § 18.703–1 of this chapter in contracts exceeding $2,500.

§ 7.702–46 Contract Work Hours Standards Act—overtime compensation.

Insert the contract clause set forth in § 12.303–1 of this chapter.

§ 7.703–24 Patent or proprietary rights in facilities. [Revoked]

14. Sections 7.704–21, 7.704–30, 7.705–5, 7.705–8, and 7.902–12 are revised; the section heading of § 7.902–16 is revised; §§ 7.1000, 7.1001, and 7.1003–1 are revised; § 7.1004–3 is revoked, as follows:

§ 7.704–21 Disputes.

Insert the contract clause set forth in § 7.103–12 of this chapter.

§ 7.704–30 Contract Work Hours Standards Act—overtime compensation.

Insert the contract clause set forth in § 12.303–1 of this chapter.

§ 7.705–5 Labor standards for construction work.

Except as provided in §§ 18.703–3 and 18.703–4 of this chapter, every construction contract, as this term is defined in §§ 12.106–1 and 18.701, shall include the following:

LABOR STANDARDS FOR CONSTRUCTION WORK (OCTOBER 1966)

(a) In the event that construction, alteration, or repair (including painting and decorating) of public buildings or public works is to be performed hereunder, the Contractor shall, prior to commencing the work, request the determination of the Contracting Officer as to the applicability of the Davis-Bacon and Copeland Acts and shall not perform any of said items hereunder without receipt of such determination.

(b) The Contractor shall, in the performance of items of work so determined to be subject to the Davis-Bacon Act, comply with the following clauses set forth in 18-703.1 of the Armed Services Procurement Regulation in effect as of the date of this contract:

(i) "Davis-Bacon Act (40 U.S.C. 276a-7)."
(ii) "Apprentices,"
(iii) "Payrolls and Basic Records,"
(iv) "Compliance with Copeland Regulations,"
(v) "Withholding of Funds,"
(vi) "Subcontracts," and
(vii) "Contract Termination—Debarment."

(c) Upon determination that the Davis-Bacon Act is applicable to any item of work to be performed hereunder, the Contractor shall submit a request for a predetermination of the prevailing wage rates to be made applicable to such work. Upon receipt of such request, the Contracting Officer shall, as soon as possible, obtain a predetermination of the applicable prevailing wage rates and publish such rates and incidental instructions in numbered exhibits to this contract. Upon publication thereof, such exhibits shall be considered the wage determination decision of the Secretary of Labor referred to in paragraph (a) of the "Davis-Bacon Act" clause. Each such exhibit shall indicate to what work the rates set forth therein shall apply, including the period of time within which subcontracts subject to such rates may be issued.

§ 7.705–8 Patent rights.

In all Facilities contracts in which research or development or both will be involved, insert one of the clauses set forth in § 9.107–5 of this chapter or § 9.107–6 of this chapter with additional or alternate paragraphs as prescribed therein, except that the percentage amount specified to be withheld under paragraph (g) of the clause set forth in § 9.107–5(a) of this chapter and paragraph (f) of the clause set forth in § 9.107–5(b) of this chapter may be changed from "five percent (5%)" to "one percent (1%)". In Facilities contracts with educational or nonprofit institutions, paragraph (g) of the clause set forth in § 9.107–5(a) of this chapter and paragraph (f) of the clause set forth in § 9.107–5(b) of this chapter may be omitted.

§ 7.902–12 Communist areas.

In accordance with § 6.403 of this chapter, insert the clause set forth therein.

§ 7.902–16 Technical data—withholding of payments.

* * * * *

§ 7.1000 Scope of subpart.

This subpart sets forth uniform contract clauses for use in stevedoring contracts as defined in § 22.401 of this chapter.

§ 7.1001 Technical provisions.

The following clauses or appropriate revisions in accordance with § 22.404 of this chapter shall normally be included in all stevedoring contracts.

§ 7.1003–1 Communist areas.

In accordance with the requirements of § 6.403 of this chapter, insert the clause therein.

§ 7.1004–3 Taxes where foreign agreements do not apply. [Revoked]

15. In § 7.1102–2(b), the clause heading is revised and new clause paragraph (g) and new subparagraph (4) are added; and § 7.1200 is revised, as follows:

§ 7.1102–2 Requirements contracts.

* * * * *

(b) *Requirements.*

REQUIREMENTS (OCTOBER 1966)

* * * * *

(g) Subject to any limitations elsewhere in this contract, the Contractor shall furnish to the Government all supplies and services set forth in the Schedule which are called for by delivery orders issued in accordance with the "Ordering" clause of this contract.

* * * * *

(4) When a requirements contract involves a partial small business set-aside or a labor surplus area set-aside, substitute the following for paragraph (b) of the above clause.

(b) Since the Government's requirements for each item or subitem of supplies or services described in the Schedule are being procured through one non-set-aside contract and one set-aside contract, the Government shall order from each Contractor approximately one half of the total of such supplies or services set forth in the Schedule which are required to be purchased by the Government activity identified in the "Ordering" clause of this contract. The Government may choose between the set-aside Contractor and the non-set-aside Contractor in placing any particular order. However, the Government shall so allocate successive orders, in accordance with its delivery requirements, as to maintain as close a balance as is reasonably practicable between the total quantities ordered from the two Contractors.

* * * * *

§ 7.1200 Scope of subpart.

This subpart sets uniform contract clauses for mortuary services (care of remains) contracts (see Subpart E, Part 22 of this chapter).

PART 9—PATENTS, DATA, AND COPYRIGHTS

16. The introductory text of § 9.102–1 is revised; the last sentence of § 9.104 is revised; § 9.105 is revoked; §§ 9.106 and 9.106–1 are revised; and new § 9.106–2 is added, as follows:

§ 9.102–1 Authorization and consent in contracts for supplies or services.

The contract clause set forth below may be included in all contracts for supplies or services (including construction or architect-engineering work, see § 18.902–1 of this chapter) except:

* * * * *

§ 9.104 Notice and assistance.

* * * * *

For proper action to be taken by the contracting officer with respect to reports of notices or claims of patent infringement received by him under the provisions of this section, see Subpart D of this part.

§ 9.105 Processing of infringement claims. [Revoked]

§ 9.106 Classified contracts.

Unauthorized disclosure of classified subject matter, whether in patent applications or resulting from the issuance of a patent, may be a violation of 18 U.S.C. 791 et seq. (Espionage and Censorship) and related statutes and may be contrary to the interests of national security. Accordingly, except as otherwise provided in § 9.106–2, the following clause shall be included in every classified contract which covers or is likely to cover classified subject matter.

FILING OF PATENT APPLICATIONS (OCTOBER 1966)

(a) Before filing or causing to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S.C. 181–188 or the issuance of a patent should be otherwise delayed under pertinent U.S. statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the U.S. Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Confidential," a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent U.S. statutes or regulations.

(c) Where the subject matter of this contract is classified for reasons of security, the Contractor shall not file, or cause to be filed in any country, other than in the United States as provided in (a) and (b) of this clause, an application or registration for a patent containing any of said subject matter without first obtaining written approval of the Contracting Officer.

(d) When filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter, and shall also promptly furnish to the Contracting Officer the serial number, filing date, and name of country of any such patent application. When transmitting the application to the U.S. Patent Office, the Contractor shall by separate letter identify by agency and number the contract or contracts which require security classification markings to be placed on the application.

§ 9.106–1 Classified contracts—contracting officer's duties.

(a) Upon receipt from the contractor of a patent application, not yet filed, which has been submitted by the contractor in compliance with paragraphs (a) or (b) of the clause in § 9.106, the contracting officer shall ascertain the proper security classification of the patent application. Upon a determination that the application contains classified material, the contracting officer shall inform the contractor of any instructions deemed necessary or advisable relating to transmittal of the application to the United States Patent Office in accordance with procedures in the Department of Defense Industrial Security Manual for Safeguarding Classified Security Information. If the material is classified "Secret" or higher, the contracting officer shall make every effort to notify the contractor of the determination within 30 days pursuant to paragraph (a) of the clause.

(b) In the case of all applications filed under the provisions of this section, the contracting officer, upon receiving the application serial number, the filing date, and the information furnished by the contractor under paragraph (d) of the clause, shall promptly submit that information to personnel having cognizance of patent matters in order that necessary steps may be taken to insure the security of the application.

(c) A request for the approval referred to in paragraph (c) of the clause in § 9.106 must be considered and acted upon promptly in order to avoid the loss of valuable patent rights of the contractor.

§ 9.106–2 Classified contracts relating to atomic energy.

Where the contract contains a Patent Rights clause which includes paragraph (l) of § 9.107–7, the instructions contained in such paragraph shall be followed in processing information regarding any Subject Invention (Classified or Unclassified), relating to the production or utilization of special nuclear material or atomic energy.

17. In § 9.107–4, paragraphs (a) and (b) are revised, and a new paragraph (h) is added; §§ 9.107–5, 9.107–7(a), 9.107–9, 9.108 and 9.109 are revised; and new §§ 9.109–1, 9.109–2, 9.109–3, 9.109–4, and 9.109–5 are added, as follows:

§ 9.107–4 Procedures.

(a) After appropriate consultation with legal, patent, and technical advisors, the contracting officer shall determine whether the Government or the contractor should acquire the principal or exclusive rights (hereafter these rights are referred to as "title") to any or all inventions made in the course of or under each contract and shall document the contract file to support his determination. The basic considerations and policy set forth above together with procedures in this part shall govern the making of this determination. The Preaward Patent Rights Documentation Checklist set forth in paragraph (h) of this section may be used in determining the appropriate Patent Rights clause to be incorporated in a request for proposals in procurements involving experimental, developmental, or research work. If the contracting officer determines that the Patent Rights (Title) clause (§ 9.107–5(a)) is applicable, that clause shall be the only Patent Rights clause used. If it is determined that the Patent Rights (Title) clause (§ 9.107–5(a)) is not applicable, the contracting officer shall include both the Patent Rights (License) (§ 9.107–5(b)) and Patent Rights (Deferred) (§ 9.107–5(c)) clauses in the request for proposals together with the statement: "The contracting officer will determine during negotiation which of these two patent rights clauses will be used in the contract, and the determination will be made in accordance with the guidelines set forth in ASPR 9–107." Except where the Patent Rights (Title) clause is applicable, DD Form 1564, "Preaward Patent Rights Documentation", may be included in each request for proposal. In the case of an unsolicited proposal, the contractor may be requested to complete that DD Form. The Checklist and the DD Form, if used, shall be made a part of the contract file.

(b) Category I—Where the contracting officer determines that proposed experimental, developmental, or research work falls within Category I set forth in § 9.107–3(a), the Patent Rights (Title) clause set forth in § 9.107–5(a) shall be included in the contract. When said determination is based on § 9.107–3(a)(3) notice to that effect will be included in the solicitation. If the contractor to whom the award is to be made challenges the applicability of this provision, the contracting officer will review the basis for his determination and provide the contractor with the reaso.. for his conclusion. If the contracting officer and the contractor cannot then resolve the issue, the contracting officer will promptly forward the problem to the Head of the Procuring Activity for resolution. If award of the contract cannot be delayed, the contracting officer may proceed with the procurement pending resolution of the issue, provided the contract contains the Patent Rights (Title) clause set forth in § 9.107–5(a), accompanied by the following statement: "Contractor agrees to accept the Patent Rights Clause which is ultimately determined, in accordance with departmental procedures, to be the appropriate one." The contracting officer shall consider the following in making his determination:

(1) In the situation in Category I(i) in § 9.107–3(a), a principal purpose of the contract or a series of related contracts must be research or development work on an end item (a product or process) either (i) intended for use in the civilian economy, or (ii) which the general public will be required by governmental regulation to use. End items of this nature would most likely be found in the field of Civil Defense.

(2) In the situation in Category I(ii) in § 9.107–3(a), a principal purpose of the contract must be directly concerned with the public health or public welfare (e.g., drugs, medical instruments, water desalinization, and weather modification or control), and not solely items of only military application.

(3) Under Category I(iii) in § 9.107–3(a), the contract must be for an end product in a field of science or technology in which, at the time the contract is entered into, there has been little or no significant experience except for work funded by the Government or where the Government has been the principal developer. If the contracting officer determines that the proposed contract is in such a field of science or technology, he then shall determine whether the contractor would likely get a preferred or dominant commercial position in that field if he were permitted to acquire title to inventions made under the contract. It would be inequitable to other commercial manufacturers or sources to permit a contractor to acquire such a preferred or dominant commercial position based principally upon work funded by the Government.

(4) Under Category I(iv)(A) in § 9.107–3(a), a contract for the operation of a Government-owned production facility must call for experimental, developmental, or research work at such a facility. In Category I(iv)(B) the words "coordinating and directing the work of others" do not refer to the normal prime contractor-subcontractor relationship, but refer instead to a relationship in which a potential organizational conflict-of-interest exists. See § 1.113–2.

Notwithstanding any determination in accordance with this paragraph, in exceptional circumstances the contractor may acquire greater rights than a nonexclusive license at the time of contracting if the Secretary certifies that such action will best serve the public interest.

* * * * *

(h) *Preaward patent rights documentation checklist.*

(Authorized for local reproduction)

PREAWARD PATENT RIGHTS DOCUMENTATION CHECKLIST

Procurement Identification:_____
Purpose of Proposed Procurement:_____

1. Is a principal purpose of the proposed contract, either by itself or as one of a series of directly related contracts, to create, develop or improve an end item intended for use in the civilian economy?[1] (See ASPR 9-107.3 (a)(i) and 9-107.4(b)(1).)_____ ☐ Yes ☐ No
   If "Yes," identify the end item and briefly describe its intended use in the civilian economy.
2. Is a principal purpose of the proposed contract, either by itself, or as one of a series of directly related contracts to create, develop or improve an end item which will be required for use by the general public by a Government regulation_____ ☐ Yes ☐ No
   If "Yes," identify the end item and cite applicable regulation. (See ASPR 9-107.3(a)(i) and 9-107.4(b)(1).)
3. Is a principal purpose of the contract exploration into a field directly concerned with public health or public welfare (as distinguished from items predominantly of military concern)? (See ASPR 9-107.3(a)(ii) and 9-107.4(b)(2).)_____ ☐ Yes ☐ No
   If "Yes," identify such principal purpose of the contract and briefly describe its relationship to the public health or public welfare.
4. Is the contract for procurement in a field of science or technology in which there has been little significant experience outside of work funded by the Government?[2] (See ASPR 9-107.3(a)(iii) and 9-107.4(b)(3).)_____ ☐ Yes ☐ No
   If "Yes," briefly describe such field.
5. Is the contract for procurement in a field of science or technology in which the Government has been the principal developer of the field?[2] (See ASPR 9-107.3(a)(iii) and 9-107.4(b)(3).)_____ ☐ Yes ☐ No
   If "Yes," briefly describe such field.
6. If the answer to either 4 or 5 is "Yes," would the contractor be likely to get a preferred or dominant commercial position in that field if he were permitted to acquire title to inventions made under the contract? (See ASPR 9-107.3(a)(iii) and 9-107.4(b)(3).)_____ ☐ Yes ☐ No
   Explain the answer.
7. Does the contract require that the contractor both (i) provide services for operation of a Government-owned research or production facility and (ii) perform experimental, developmental or research work at that facility? (See ASPR 9-107.3(a)(iv)(A) and 9-107.4(b)(4).)_____ ☐ Yes ☐ No
8. Does the contract require contractor to coordinate and direct the work of others (as distinguished from the normal contractor-subcontractor relationship) which might result in a potential organizational conflict of interest? (See ASPR 1-113.2, Appendix G, and 9-107.3(a)(iv)(B), 9-107.4(b)(4).)_____ ☐ Yes ☐ No
   If "Yes," explain briefly why such a potential conflict of interest is considered to exist.

_____
(Typed name, office, and signature of person completing this form)

The Patents Rights (Title) Clause, ASPR 9-107.5(a), will ____ will not ____ be used in the solicitation. (Give reasons for determination.)

_____
(Typed name and signature of contracting officer or representative)

[1] The contract or series of contracts need not necessarily require delivery of the end item. The end item may be a product, a process or data.

[2] The mere fact that the Government has been or is the principal funder or developer funder or developer in a field of science or technology which encompasses the piece of hardware.

§ 9.107–5 Clauses for domestic contracts.

(a) *Patent Rights (Title) Clause.* If the contracting officer has determined that the contract comes within § 9.107–4 (b) or (d), he shall include the following clause in the contract. This clause provides for the Government to acquire title in "Subject Inventions," subject to the contractor's retaining a royalty-free license in such inventions; however, the Government may permit the contractor, under certain circumstances, to acquire greater rights than the license.

PATENT RIGHTS (TITLE) (OCTOBER 1966)

(a) *Definitions used in this clause.* (1) "Subject Invention" means any invention or discovery, whether or not patentable, conceived, or first actually reduced to practice in the course of or under this contract. The term "Subject Invention" includes, but is not limited to, any art, method, process, 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.

(2) "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 (make or have made, use or have used, sell or have sold) any Subject Invention throughout the world by or on behalf of the Government of the United States.

(3) "Contract" means any 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.

(4) "Subcontract and subcontractor means any subcontract or subcontractor of the Contractor, any lower-tier subcontract or subcontractor under this contract.

(5) "To bring 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 or system and, in each case, under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Rights granted to the Government.* Except as provided in (e) and (h) of this clause, the Contractor agrees to grant the Government all right, title, and interest in and to each Subject Invention (made by the Contractor), subject to the reservation of a nonexclusive and royalty-free license to the Contractor. The license shall extend to existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part and shall be assignable to the successor of that part of the Contractor's business to which such Invention pertains. Nothing contained in this Patent Rights clause shall be deemed to grant any rights with respect to any invention other than a Subject Invention.

(c) *Invention disclosures and reports.* (1) With respect to Subject Inventions (made by the Contractor), except those which are obviously unpatentable under the patent laws of the United States, the Contractor shall furnish to the Contracting Officer:

(i) A written disclosure of each invention within six (6) months after conception or first actual reduction to practice, whichever occurs first under this contract, sufficiently complete in technical detail to convey to one skilled in the art to which the Invention pertains a clear understanding of the nature, purpose, operation, and to the extent known the physical, chemical, or electrical characteristics of the Invention; when unable to submit a complete disclosure, the Contractor shall within said six (6) month period submit a disclosure which includes all such technical detail then known to him and shall, unless the Contracting Officer authorizes a different period, submit all other technical detail necessary to complete the disclosure within three (3) months of the expiration of said six (6) month period.

(ii) Interim reports at least every twelve (12) months, the initial period of which shall commence with the date of this contract, each report listing all such Inventions conceived or first actually reduced to practice more than three (3) months prior to the date of the report and not listed on a prior interim report, or certifying that there are no such unreported Inventions;

(iii) Prior to final settlement of this contract, a final report listing all such Inventions including all those previously listed in interim reports, or certifying that there are no such unreported Inventions;

(iv) Information in writing, as soon as practicable, of the date and identity of any public use, sale, or publication of such Invention made by or known to the Contractor or of any contemplated publication by the Contractor;

(v) Upon request, such duly executed instruments and other papers (prepared by the Government) as are deemed necessary to vest in the Government the rights granted it under this clause and to enable the Government to apply for and prosecute any patent application, in any country, covering such Invention where the Government has the right under this clause to file such application; and

(vi) Upon request, an irrevocable power of attorney to inspect and make copies of each U.S. patent application filed by, or on behalf of, the Contractor covering any such Invention.

(2) With respect to each Subject Invention in which the Contractor has been granted greater rights under paragraph (h) of this clause, the Contractor agrees to provide written reports at reasonable intervals, when requested by the Government as to:

(i) The commercial use that is being made or is intended to be made of such Invention;

(ii) The steps taken by the Contractor to bring the Invention to the point of practical application, or to make the Invention available for licensing.

(d) *Subcontracts.* (1) The Contractor shall, unless otherwise authorized or directed by the Contracting Officer, include a patent rights clause containing all the provisions of this Patent Rights clause except provision (g) in any subcontract hereunder where a purpose of the subcontract is the conduct of experimental, developmental, or research work. In the event of refusal by a subcontractor to accept this Patent Rights clause, or if in the opinion of the Contractor this Patent Rights clause is inconsistent with the policy set forth in ASPR 9-107.2 and 9-107.3, the Contractor:

(i) Shall promptly submit a written report to the Contracting Officer setting forth the subcontractor's reasons for such refusal or the reasons Contractor is of the opinion that the inclusion of this clause would be so inconsistent, and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Contracting Officer.

The Contractor shall not, in any subcontract or by using such a subcontract as consideration therefor, acquire any rights to Subject Inventions for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract). Reports, instruments, and other information required to be furnished by a subcontractor to the Contracting Officer under the provisions of such a patent rights clause in a subcontract hereunder may, upon mutual consent of the Contractor and the subcontractor (or by direction of the Contracting Officer) be furnished to the Contractor for transmission to the Contracting Officer.

(2) The Contractor, at the earliest practicable date, shall also notify the Contracting Officer in writing of any subcontract containing a patent rights clause, furnish to the Contracting Officer a copy of such subcontract, and notify him when such subcontract is completed. It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all the rights that the Contractor would have to enforce the subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. If there are no subcontracts containing patent rights clauses, a negative report is required. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to the obligations of the subcontractor to the Government in regard to Subject Inventions.

(e) *Domestic filing of patent applications by contractor.* (1) If greater rights are granted in and to a Subject Invention pursuant to paragraph (h) of this clause, the Contractor shall file in due form and within six (6) months of the granting of such greater rights a U.S. Patent application claiming the Invention referred to in said paragraph, and shall furnish, as soon as practicable, the serial number and filing date of each such application and the patent number of any resulting patent. As to each Invention in which the Contractor has been given greater rights, the Contractor shall notify the Contracting Officer at the end of the six (6) month period if he has failed to file or caused to be filed a patent application covering such invention. If the Contractor has filed or caused to be filed such an application within the six (6) month period, but elects not to continue prosecution of such application, he shall notify the Contracting Officer not less than sixty (60) days before the expiration of the response period. In either of the situations covered by the two immediately preceding sentences, the Government shall be entitled to all rights, title, and interest in such Invention subject to the reservation to the Contractor of a license as specified in paragraph (b).

(2) The following statement shall be included within the first paragraph of any patent application filed and any patent issued on an Invention which was made under Government contract or subcontract thereunder: "The Invention herein described was made in the course of or under a contract or subcontract thereunder (or grant) with (here state the Department or Agency)."

(f) *Foreign filing of patent applications.* (1) If the Contractor acquires greater rights in a Subject Invention pursuant to paragraph (h) of this clause and has filed a U.S. patent application claiming the Invention, the Contractor, or those other than the Government deriving rights from the Contractor, shall as between the parties hereto, have the exclusive right, subject to the rights of the Government under paragraph (i) of this clause, to file applications on the Inventions in each foreign country within:

(i) Nine (9) months from the date a corresponding U.S. patent application is filed;

(ii) Six (6) months from the date permission is granted to file foreign applications where such filing has been prohibited for security reasons; or

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

The Contractor shall notify the Contracting Officer of each foreign application filed and, upon written request of the Contracting Officer, furnish an English translation of such application, and, convey to the Government the entire right, title, and interest in the Invention in each foreign country in which an application has not been filed within the time specified above, subject to the reservation of a royalty-free license as specified in paragraph (b).

(2) If the Contratcor does not acquire greater rights pursuant to paragraph (h) of this clause and the Government determines not to file a patent application on any Subject Invention (made by the Contractor) in any particular foreign country, the Contracting Officer, upon request of the Contractor, may authorize the Contractor to file a patent application on such Invention in such foreign country and retain ownership thereof, subject to an irrevocable, nonexclusive and royalty-free license to practice and have practiced such Subject Invention throughout the world for Governmental purposes, including the practice of each such Subject Invention (i) in the manufacture, use, and disposition of any article or material, (ii) in the use of any method, or (iii) in the performance of any service, acquired by or for the Government or with funds derived through the Military Assistance Program of the Government or funds otherwise derived through the Government.

(g) *Withholding of payment.* (1) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer the final report required by (c)(1)(iii), all written invention disclosures required by (c)(1)(i), and all information as to subcontracts required by (d)(ii).

(2) If at any time before final payment under this contract the Contractor fails to deliver an interim report required by (c)(1)(ii), or a written invention disclosure required by (c)(1)(i), the Contracting Officer shall withhold from payment $50,000 or five percent (5%), of the amount of this contract whichever is less (or whatever lesser sum is available if payments have exceeded ninety-five percent (95%) of the amount of this contract) until the Contractor corrects all such failures.

(3) After payments total eighty percent (80%) of the amount of this contract, and if no amount is required to be withheld under (2) above, the Contracting Officer may, if he deems such action warranted because of the Contractor's performance under the Patent Rights clause of this contract or other known Government contracts, withhold from payment such sum as he considers appropriate, not exceeding $50,000 or five percent (5%), of the amount of this contract whichever is less, to be held as a reserve until the Contractor delivers all the reports, disclosures, and information specified in (1) above. Subject to the five percent (5%) or $50,000 limitation, the sum withheld under this subparagraph (3) may be increased or decreased from time to time at the discretion of the Contracting Officer.

(4) No amount shall be withheld under this paragraph (g) while the amount specified by this paragraph is being withheld under other provisions of this contract. The total amount withheld under (2) and (3) above shall not exceed $50,000 or five percent (5%), of the amount of this contract whichever is less. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract. This paragraph shall not be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provision of a subcontract. As used in this paragraph (g), "this contract" means "this contract as from time to time amended." In cost-type contracts, "amount of this contract" means "estimated cost of this contract."

(h) *Contractor's request for greater rights.* The Contractor at the time of first disclosing a Subject Invention pursuant to paragraph (c)(1)(i) of this clause, but not later than three (3) months thereafter, may submit in writing to the Contracting Officer, in accordance with applicable regulations, a request for greater rights than the license reserved to the Contractor in paragraph (b) of this clause if:

(i) The Invention is not the primary object of this contract; and

(ii) The acquisition of such greater rights is consistent with the intent of ASPR 9-107.3 (a) and is necessary to call forth private risk capital and expense to bring the Invention to the point of practical application.

The Contracting Officer will review the Contractor's request for greater rights and will notify the Contractor whether such request is granted in whole or in part. Any rights granted to the contractor shall be subject to, but not necessarily limited to, the provisions of paragraph (i) of this clause.

(i) *Reservation of Rights to the Government.* (1) In the event greater rights in any Subject Invention are vested in or granted to the Contractor pursuant to paragraph (h) above, such greater rights shall, as a minimum, be subject to an irrevocable, nonexclusive and royalty-free license to practice and have practiced each such Subject Invention (made by the Contractor) throughout the world for Governmental purposes, and including the practice of each such Subject Invention (i) in the manufacture, use, and disposition of any article or material, (ii) in the use of any method, or (iii) in the performance of any service, acquired by or for

the Government or with funds derived through the Military Assistance Program of the Government or funds otherwise derived through the Government.

(2) In the event greater rights are vested in the Contractor, the Contractor further agrees to and does hereby grant to the Government the right to require the granting of a license to an applicant under any such Invention:

(i) On a nonexclusive, royalty-free basis, unless the Contractor, his licensee or his assignee demonstrates to the Government, at its request, that effective steps have been taken within three (3) years after a patent issues on such Invention to bring the Invention to the point of practical application or that the Invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the title should be retained for a further period of time; or

(ii) 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 Schedule of this contract.

(j) *Right to disclose subject inventions.* The Government may duplicate and disclose reports and disclosures of Subject Inventions required to be furnished by the Contractor pursuant to this Patent Rights clause.

(k) *Forfeiture of rights in unreported subject inventions.* The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to report to the Contracting Officer at or prior to the time he (i) files or causes to be filed a United States or foreign application thereon, or (ii) submits the final report required by (c)(iii) of this clause, whichever is later: *Provided*, That the Contractor shall not forfeit rights in a Subject Invention if (A) contending that the invention is not a Subject Invention, he nevertheless reports the invention and all the facts pertinent to his contention to the Contracting Officer within the time specified in (i) or (ii) above, or (B) he establishes that the failure to report was due entirely to causes beyond his control and without his fault or negligence. The Contractor shall be deemed to hold any such forfeited Subject Invention, and the patent applications and patents pertaining thereto, in trust for the Government pending written assignment of the Invention. The rights accruing to the Government under this paragraph shall be in addition to and shall not supersede any other rights which the Government may have in relation to unreported Subject Inventions. Nothing contained herein shall be construed to require the Contractor to report any invention which is not in fact a Subject Invention.

(l) *Examination of records relating to inventions.* The Contracting Officer, or his authorized representative shall, until the expiration of three (3) years after final payment under this contract, have the right to examine any books, records, documents, and other supporting data of the Contractor which the Contracting Officer or his authorized representative shall reasonably deem directly pertinent to the discovery or identification of Subject Inventions or to compliance by the Contractor with the requirements of this clause.

(b) *Patent Rights (License) Clause.* Where the contracting officer has determined that the proposed contract comes within § 9.107–4(c) and not within § 9.107–3(d), he shall include the following clause in the contract. This clause provides for the contractor to retain title to "Subject Inventions" and for the Government to acquire a royalty-free license and the additional right to grant sublicenses.

PATENT RIGHTS (LICENSE) (OCTOBER 1966)

(a) *Definitions used in this clause.* (1) "Subject Invention" means any Invention or discovery, whether or not patentable, conceived or first actually reduced to practice in the course of or under this contract. The term "Subject Invention" includes, but is not limited to, any art, method, process, 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.

(2) "Government 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 (make or have made, use or have used, sell or have sold) and Subject Invention throughout the world by or on behalf of the Government of the United States.

(3) "Contract" means any 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.

(4) "Subcontract and subcontractor" mean any subcontract or subcontractor of the Contractor, any lower-tier subcontract or subcontractor under this contract.

(5) "To bring 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 or system and, in each case, under such conditions as to establish that the Invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Rights granted to the Government.* (1) The Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, and royalty-free license to practice and have practiced each Subject Invention (made by the Contractor) throughout the world for Government purposes, and including the practice of each such Subject Invention (i) in the manufacture, use, and disposition of any article or material, (ii) in the use of any method, or (iii) in the performance of any service, acquired by or for the Government or with funds derived through the Military Assistance Program of the Government or funds otherwise derived through the Government.

(2) The Contractor further agrees to grant, upon the request of the Government, a license under any Subject Invention (made by the Contractor) to:

(i) Any applicant on a nonexclusive, royalty-free basis, unless the Contractor, his licensee, or his assignee demonstrates to the Government, at its request, that effective steps have been taken within three years after a patent issues on such Invention to bring the Invention to the point of practical application or that the Invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time;

(ii) Any 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 Schedule of this contract.

Nothing contained in this Patent Rights clause shall be deemed to grant any rights with respect to any invention other than a Subject Invention.

(c) *Invention disclosures and reports.* With respect to Subject Inventions (made by the Contractor), except those which are obviously unpatentable under the patent laws of the United States, the Contractor shall furnish to the Contracting Officer:

(i) A written disclosure of each such Invention within six (6) months after conception or first actual reduction to practice, whichever occurs first under this contract, sufficiently complete in technical detail to convey to one skilled in the art to which the Invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, or electrical characteristics of the Invention, together with a written statement making an election as to whether a United States patent application claiming the Invention will be filed by or on behalf of the Contractor; provided, where the Contractor elects to file but is unable to submit a complete disclosure, the Contractor shall within said six (6) months period submit a disclosure which includes all such technical detail then known to him and shall, within six (6) months after his election to file (or such longer period as may be authorized by the Contracting Officer under (d)(i) below), submit all other technical detail necessary to complete the disclosure or a copy of the patent application;

(ii) Interim reports at least every twelve (12) months, the initial period of which shall commence with the date of this contract, each report listing all such Inventions conceived or first actually reduced to practice more than three (3) months prior to the date of the report and not listed on a prior interim report, or certifying that there are no such unreported Inventions;

(iii) Prior to final settlement of this contract, a final report listing all such Inventions including all those previously listed in interim reports, or certifying that there are no such unreported Inventions; and

(iv) Written reports at reasonable intervals, prior to and after final settlement, when requested by the Government as to—

(A) The commercial use that is being made or is intended to be made of such Invention;

(B) The steps taken by the Contractor to bring the Invention to the point of practical application, or to make the Invention available for licensing.

(d) *Domestic Filing.* In connection with each Subject Invention referred to in (c)(i) above:

(i) If the Contractor has elected to file a United States patent application claiming such Invention, the Contractor shall, within six (6) months after the election (or such longer period, not to exceed one (1) year after such election, as may be authorized by the Contracting Officer), file or cause to be filed such application in due form, shall notify the Contracting Officer of such filing, and shall deliver to the Contracting Officer, within two (2) months after such filing or within two (2) months of the first written disclosure of such invention if a patent application previously has been filed, a duly executed license, in triplicate, fully confirmatory of all rights to which the Government is entitled under this clause; if the Contractor does not file or cause to be filed such application, he shall so notify the Contracting Officer within the six (6) month period or such longer period as may be authorized above.

(ii) The following statement shall be included within the first paragraph of the specification of any patent application filed and any patent issued on an invention which was made under a Government contract or subcontract thereunder: "The Invention herein described was made in the course of or under a contract or subcontract there-

under, (or grant) with (here state the Department or Agency)."

(iii) If the Contractor has elected not to file or cause to be filed a United States patent application claiming such Invention, or has made the contrary election but has not filed or cause to be filed such application within six (6) months after the election, or such longer period as may be authorized above, the Contractor shall:

(A) Inform the Contracting Officer in writing, as soon as practicable, of the date and identity of any public use, or publication of such Invention made by or known to the Contractor or of any contemplated publication by the Contractor;

(B) Upon written request, convey to the Government the Contractor's entire right, title and interest in such Invention by delivering to the Contracting Officer such duly executed instruments (prepared by the Government) of assignment and application, and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest aforesaid, and the right to apply for and prosecute patent applications covering such Invention throughout the world, subject to the reservation of a nonexclusive and royalty-free license to the Contractor (and to his existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part) which license shall be assignable to the successor of that part of the Contractor's business to which such Invention pertains;

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

(v) In the event the Contractor, or those other than the Government deriving rights from the Contractor, elects not to continue prosecution of any such United States patent application filed by or on behalf of the Contractor, the Contractor shall so notify the Contracting Officer not less than sixty (60) days before the expiration of the response period and, upon written request, deliver to the Contracting Officer such duly executed instruments (prepared by the Government) as are deemed necessary to vest in the Government the entire right, title, and interest in such Invention and the application, subject to the reservation as specified in paragraph (d)(iii)(B) of this clause;

(e) *Foreign filing.* The Contractor, or those other than the Government deriving rights from the Contractor, shall as between the parties hereto, have the exclusive right, subject to the rights of the Government under paragraph (b) of this clause, to file applications on Subject Inventions (made by the Contractor) in each foreign country within:

(i) Nine (9) months from the date a corresponding United States application is filed, or nine (9) months from the date the Contractor discloses a Subject Invention under paragraph (c)(i) above with an election not to file a United States application;

(ii) Six (6) months from the date permission is granted to file foreign applications where such filing had been prohibited for security reasons; or

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

The Contractor shall notify the Contracting Officer of each foreign application filed and, upon written request of the Contracting Officer, furnish an English translation of such foreign application, and convey to the Government the entire right, title, and interest in each such Subject Invention in each foreign country in which an application has not been filed within the time above specified, subject to the reservation as specified in paragraph (d)(iii)(B) of this clause.

(f) *Withholding of payment.* (1) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer the final report required by (c)(iii), all written Invention disclosures required by (c)(i), all confirmatory licenses required by (d)(i), and all information as to subcontracts required by (g).

(2) If at any time before final payment under this contract the Contractor fails to deliver an interim report required by (c)(ii), a written Invention disclosure required by (c)(i), or a confirmatory license required by (d)(i), the Contracting Officer shall withhold from payment five percent (5%) of the amount of this contract whichever is less (or whatever lesser sum is available if payments have exceeded ninety-five percent (95%) of the amount of this contract) until the Contractor corrects all such failures.

(3) After payments total eighty percent (80%) of the amount of this contract, and if no amount is required to be withheld under (2) above, the Contracting Officer may, if he deems such action warranted because of the Contractor's performance under the Patent Rights clause of this contract or other known Government contracts, withhold from payment such sum as he considers appropriate, not exceeding $50,000 or five percent (5%), of the amount of this contract, whichever is less, to be held as a reserve until the Contractor delivers all the reports, disclosures, licenses, and information specified in (1) above. Subject to the five percent (5%) or $50,000 limitation, the sum withheld under this subparagraph (3) may be increased or decreased from time to time at the discretion of the Contracting Officer.

(4) No amount shall be withheld under this paragraph (f) while the amount specified by this paragraph is being withheld under other provisions of this contract. The total amount withheld under (2) and (3) above shall not exceed $50,000 or five percent (5%) of the amount of this contract whichever is less. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract. This paragraph shall not be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provision of a subcontract. As used in this paragraph (f), "this contract" means "this contract as from time to time amended." In cost-type contracts, "amount of this contract" means "estimated cost of this contract."

(g) *Subcontracts.* (1) The Contractor shall, unless otherwise authorized or directed by the Contracting Officer, include a patent rights clause containing all of the provisions of this Patent Rights clause except provision (f) in any subcontract hereunder where a purpose of the subcontract is the conduct of experimental, developmental, or research work. In the event of refusal by a subcontractor to accept this Patent Rights clause, or if in the opinion of the Contractor this Patent Rights clause is inconsistent with the policy set forth in ASPR 9-107.2 and 9-107.3, the Contractor:

(i) Shall promptly submit a written report to the Contracting Officer setting forth the subcontractor's reason for such refusal or the reasons the Contractor is of the opinion that the inclusion of this clause would be so inconsistent, and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Contracting Officer.

The Contractor shall not, in any subcontract or by using such a subcontract as consideration therefor, acquire any rights to Subject Inventions for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract). Reports, instruments, and other information required to be furnished by a subcontractor to the Contracting Officer under the provisions of such a patent rights clause in a subcontract hereunder may, upon mutual consent of the Contractor and the subcontractor (or by direction of the Contracting Officer) be furnished to the Contractor for transmission to the Contracting Officer.

(2) The Contractor, at the earliest practicable date, shall also notify the Contracting Officer in writing of any subcontract containing a patent rights clause, furnish to the Contracting Officer a copy of such subcontract, and notify him when such subcontract is completed. It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all the rights that he would have to enforce the subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. If there are no subcontracts containing patent rights clauses, a negative report is required. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to the obligations of the subcontractor to the Government in regard to Subject Inventions.

(h) *Licenses granted by contractor to others subject to Government's rights.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the U.S. Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for royalties for the use of a Subject Invention on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the U.S. Government, charges for use of patents in which the Government holds a royalty-free license. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(i) *Rights to disclose subject inventions.* The Government may duplicate and disclose reports and disclosures of Subject Inventions required to be furnished by the Contractor or a subcontractor pursuant to this Patent Rights clause.

(j) *Forfeiture of rights in unreported subject inventions.* The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to report to the Contracting Officer at or prior to the time he (i) files or causes to be filed a United States or foreign application thereon, or (ii) submits the final report required by (c)(iii) of this clause, whichever is later: *Provided*, That the Contractor shall not forfeit rights in a Subject Invention if (A) contending that the invention is not a Subject Invention, he nevertheless reports the invention and all facts pertinent to his contention to the Contracting Officer within the time specified in (i) or (ii) above, or (B) he establishes that the failure to report was due entirely to causes beyond his control and without his fault or negligence. The Contractor shall be deemed to hold any such

forfeited Subject Invention, and the patent applications and patents pertaining thereto, in trust for the Government pending written assignment of the invention. The rights accruing to the Government under this paragraph shall be in addition to and shall not supersede any other rights which the Government may have in relation to unreported Subject Inventions. Nothing contained herein shall be construed to require the Contractor to report any invention which is not in fact a Subject Invention.

(k) *Examination of records relating to inventions.* The Contracting Officer or his authorized representative shall, until the expiration of three (3) years after final payment under this contract, have the right to examine any books, records, documents, and other supporting data of the Contractor which the Contracting Officer or his authorized representative shall reasonably deem directly pertinent to the discovery or identification of Subject Inventions or to compliance by the Contractor with the requirements of this clause.

(c) *Patent Rights (Deferred) Clause.* Where the contracting officer has determined that the proposed contract comes within § 9.107–4(d), he shall include in the contract the Patent Rights (Title) clause set forth in paragraph (a) of this section, except that the name of the clause shall be changed to "Patent Rights (Deferred)" and paragraph (h) of that clause shall be replaced by the following paragraph (h). The clause, when so modified, differs from the clause set forth in paragraph (a) of this section only in the circumstances under which the Government may permit the contractor to acquire greater rights than the license.

(h) *Contractor's request for greater rights.* The Contractor at the time of disclosing a Subject Invention pursuant to paragraph (c) of this clause, but not later than three (3) months thereafter, may submit in writing to the Contracting Officer, in accordance with applicable regulations, a request for greater rights in such Invention than the license reserved to the Contractor in paragraph (b) of this clause. Each such request shall include, but need not be limited to, information concerning the Contractor's intention and plan to bring the Invention to the point of commercial application. The Contracting Officer shall review the Contractor's request for greater rights and shall notify the Contractor whether, and the extent to which, such request is granted. Any rights granted to the Contractor shall be subject to the provisions of (i) of this clause (MAY 1964).

§ 9.107–7 Contracts relating to atomic energy.

(a) Except as provided in paragraph (b) of this section, the following paragraph shall be inserted as a part of the Patent Rights clause set forth in § 9.107–5(b) in all research or development contracts relating to atomic energy.

(i) With respect to any Subject Invention made by employees of the Contractor (except clerical and manual labor personnel who do not have access to technical data), and relating to the production or utilization of special nuclear material or atomic energy within the purview of the Atomic Energy Acts of 1946 (42 U.S.C. 1801–1819) and of 1954 (42 U.S.C. 2011–2296), the Contractor agrees:

(i) To furnish to the U.S. Atomic Energy Commission (hereinafter in this paragraph (i) referred to as "the Commission") through the Contracting Officer complete information regarding such Subject Invention, the Commission to have the sole and conclusive power to determine whether and where a patent application shall be filed, and to determine the disposition of the title to and rights under any such application or any patent that may issue thereon;

(ii) To obtain the execution of and deliver to the Commission, all documents relating to each Subject Invention and to do all things necessary or proper to carry out any determination of the Commission, made under (i) (i) above;

(iii) Unless otherwise authorized in writing by the Commission to obtain patent agreements from all such employees to effectuate the purposes of this paragraph (i); and

(iv) Unless otherwise authorized in writing by the Commission, to insert this paragraph (i) in all subcontracts.

No claim for pecuniary award or compensation under the provisions of the Atomic Energy Acts of 1946 and 1954 shall be asserted by the Contractor or his employees with respect to any Subject Invention covered by this paragraph (OCTOBER 1966).

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§ 9.107–9 Contracts relating to space.

In order that inventions arising out of Department of Defense sponsored space research and development may be available for use for the benefit of the general public in communications satellite systems, whether such systems are operated by or for the Government or by private enterprise for the transmission of commercial or Government traffic, the paragraph set forth below, in lieu of paragraph (b) (1) of the Patent Rights clause prescribed in § 9.107–5(b) shall be inserted, except as provided in § 9.107–8, in any contract having as one of its purposes the performance of research and development work under a space program, project, or task:

(b) *Rights granted to the Government.* (1) The Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, and royalty-free license to practice and have practiced each Subject Invention (made by the Contractor) throughout the world for Governmental purposes, including the practice of each such Subject Invention (i) in the manufacture, use, and disposition of any article or material, (ii) in the use of any method, or (iii) in the performance of any service, acquired by or for the Government or with funds derived through the Military Assistance Program of the Government or funds otherwise derived through the Government. In addition, the Government shall have the right to grant licenses to others, under such terms and conditions as may be prescribed, for the practice of such Subject Invention throughout the world in the design, development, manufacture, operation, maintenance, and testing of communications satellite systems, and of equipment, components, and ground tracking, transmitting and receiving facilities therefor (OCTOBER 1966).

§ 9.108 Patent rights under contracts for personal services.

(a) Except as provided in paragraph (b) of this section, the following clause, which is based on Executive Order 10096, shall be inserted in all contracts with individuals who are to render personal services.

PATENTS (DECEMBER 1953)

(a) For the purpose of determining the rights of the Government and the Contractor in and to inventions, the Contractor agrees to be bound by all provisions of Executive Order 10096, dated January 23, 1950, and any orders, rules, regulations, or the like issued thereunder.

(b) The Contractor shall: (i) Make written disclosure promptly to the Contracting Officer of all inventions of the Contractor which are conceived or first reduced to practice during the term of this contract, and sign and execute all papers necessary for conveying to the Government the right to which the Government is entitled in accordance with the determination made under the provisions of Executive Order 10096, or (ii) certify to the Contracting Officer that, to the best of the Contractor's knowledge and belief, no inventions have been conceived or first reduced to practice during the term of this contract.

(b) Where it is contemplated that research, experimental, or developmental work will not be involved, paragraph (b) of the clause may be omitted. Upon written request by the prospective contractor and approval by the Head of the Procuring Activity or his authorized representative, the clause may be modified or omitted where:

(1) The period of employment is to be not more than 90 days in any 1 calendar year; or

(2) (i) The period of employment called for in the contract or in any renewal thereof is more than 90 days but not more than 1 year of full-time service, and

(ii) The prospective contractor is bound by an obligation which existed prior to entering into the proposed contract with the Government and which was not entered into in contemplation thereof, and the discharge of which would be inconsistent with the discharge of any obligation arising under Executive Order 10096.

§ 9.109 Administration of patent rights clauses.

The President's Statement of Government Patent Policy (see § 9.107) provides that every appropriate effort should be made to realize for the Government and the public the benefit of inventions and discoveries resulting from experimental, research and development contracts even where the inventions are an incidental product of the work. It is important that the Government be in a position to know and exercise its rights in order to avoid payment of royalties on inventions in which it has rights and to defend itself against unjustified claims and suits for patent infringement. To attain these ends, contracts having patent rights clauses should be so administered that:

(a) Subject Inventions are identified and reported as required by the contract clauses;

(b) The rights of the Government in such Inventions are established;

(c) The rights of the Government are documented by formal instruments such as licenses or assignments; and

(d) When appropriate, patent applications on Subject Inventions are timely filed and prosecuted by contractors or by the Government.

§ 9.109–1 Applicability.

The following policies and procedures apply to all contracts having patent rights clauses, except that these policies

and procedures may be modified in their application to a foreign contract so as to be consistent with local law and custom and the provisions of the patent rights clause of the particular contract (see §§ 1.109 and 9.107–6).

§ 9.109–2 Follow-up by Government.

(a) Each Department shall maintain "followup" systems to assure that Subject Inventions are identified and that the Government's rights therein are established and protected. Followup activities for contracts which include as part of a patent rights clause either the paragraph set forth in § 9.107–7(a) or the NASA clause referenced in § 9.107–8 (a) shall be coordinated with the Atomic Energy Commission and the National Aeronautics and Space Administration, respectively.

(b) When it is determined after the award of a contract that the contractor or subcontractor may not have a clear understanding of the rights and obligations of the parties under a patent rights clause, a postaward orientation conference or letter should be used to explain these rights and obligations (see Subpart R, Part 1 of this chapter).

(c) The contracting officer administering the contract shall be responsible for receiving invention disclosures, reports, confirmatory instruments, notices, requests, and other documents and information submitted by the contractor pursuant to a patent rights clause. Where the contractor fails to furnish documents or information called for by the clause within the time required by the clause, the contracting officer administering the contract shall promptly request the contractor to supply the required documents or information and, if the failure persists, shall take appropriate action to secure compliance. Invention disclosures, reports, confirmatory instruments, notices, requests, and other documents and information relating to patent rights clauses shall be sent by the contracting officer administering the contract to the procuring Department for appropriate action.

(d) The procuring Department shall establish a method to detect and correct failures by the contractor to comply with his obligations under the patent rights clauses, such as failures to disclose and report Subject Inventions, both before and after the contract otherwise has been performed. This effort should be directed primarily towards contracts which because of the nature of the work or the large dollar amount spent are likely to result in Subject Inventions significant in number or quality, and towards contracts where there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts should be spot-checked when feasible. As a minimum, appropriate followup shall include the investigation or review of selected contracts or contractors by an individual or team qualified in patent and technical matters.

(e) Followup activities may include use of Government patent and technical personnel:

(1) To review technical reports submitted by the contractor;

(2) To check the Official Gazette of the U.S. Patent Office and other sources for patents issued to the contractor in fields related to his Government contracts; and

(3) If additional information is required, to interview contractor personnel as to work under the contract involved, observe the work on site, and inspect laboratory notebooks and other records of the contractor related to work under the contract.

(f) In the administration of a subcontractor's obligations under a patent rights clause, the procedures outlined above shall be followed by the Government.

§ 9.109–3 Maintenance and use of records of performance.

(a) Significant or repeated failures by a contractor to comply with the patent rights clauses of his contracts shall be documented (see §§ 1.308 and 1.905–1(c)).

(b) Where a contract is subject to the Contractor Performance Evaluation Program (§ 4.215), the procuring activity shall report to the project manager any significant or repeated failure to comply with the patent right clause. The project manager shall note in the Contractor Performance Evaluation Reports any such information which he has received relating to the contractor's meeting his obligations under the "required clauses."

§ 9.109–4 Conveyance of invention rights to Government.

(a) Where the Government is entitled to the conveyance of the entire right, title, and interest in a subject invention pursuant to a contract, two assignments are required, one from the inventor to the contractor and another from the contractor to the Government, to establish clearly the chain of title from the inventor to the Government. The form of conveyance of title from the inventor to the contractor must be legally sufficient to convey the rights the contractor is required to convey to the Government. The format set forth below is approved for use by the contractor to convey title to the Government pursuant to paragraphs (b) and (c)(1)(v) of the clause in § 9.107–5(a), and paragraphs (d)(iii)(B) and (d)(v) of the clause in § 9.107–5(b). The contractor shall forward both assignments at the same time for recording as required by § 9.109–5.

ASSIGNMENT [1]

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hereinafter referred to as the Assignor, pursuant to the agreement made in Contract No. _____, hereby conveys to the United States of America, subject to a nonexclusive and royalty-free license which is hereby reserved to the Assignor, all right, title, and interest in and to each invention disclosed in the following patent, patent application or other documents:

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[1] Must be accompanied by assignment from inventor to contractor.

The license reserved to the Assignor shall extend to all existing and future associated and affiliated companies, within the corporate structure, if any, of which the Assignor is a part, and shall be assignable to the successor of that part of the Assignor's business to which such invention pertains.

The Assignor hereby further agrees to furnish to the United States of America, upon request, any information and documents necessary for the preparation and prosecution of an application for patent (including prosecution and settlement of interferences) covering any of the above-identified inventions, and of any substitution, division, continuations-in-part, or continuation of such an application, and of any application for reissue of any patent resulting from such an application.

Signed this ____ day of _____, 19__.

[SEAL] _____
(Assignor)

Attest: By _____
_____
(Address)

_____
(Name(s) of Inventor(s))

hereby consent(s) and agree(s) to the above assignment and further agree(s) to assist Assignor upon request, by furnishing any information and documents, and by performing all acts, and by doing all things as may be reasonably necessary to make the above assignment effective.

Signed this ____ day of _____, 19__.

Attest: _____
(Inventor(s))

_____
(Address)

(b) Where the Government is entitled to a royalty-free license in and to a Subject Invention pursuant to contractual provisions (see paragraphs (i)(1) of the clause in § 9.107–5(a) and (b)(1) of the clause in § 9.107–5(b)), the format set forth below is approved for use by the contractor in making such a grant.

CONFIRMATORY LICENSE

Application for: _____
(Title of Invention)

Inventor(s): _____
Serial No.: _____
Contract No.: _____
Contractor: _____
Filing Date: _____

The invention identified above is a "Subject Invention" under Patent Rights Clause, ASPR 9–_____ (_____) included in Contract No. _____, which (does) (does not) include Communication Satellite paragraph of ASPR 9–107.9 (_____). This document is confirmatory of all rights granted to the Government under such clause.
(Identify clause) (date) (date)

The contractor agrees that the Government is not estopped at any time to contest the enforceability, validity, or scope of or title to the patent application identified above or any patent resulting therefrom.

It is understood and agreed that this document does not preclude the Government from asserting rights under the provisions of said contract or of any other agreement between the Government and the Contractor, or any other rights of the Government with respect to each of the above-identified inventions.

Signed this ____ day of _____, 19__.

[SEAL] _____
(Contractor)

Attest: By _____
_____
(Business Address)

(c) A contractor disclosing a Subject Invention pursuant to paragraph (c)(1)(i) of the clause in § 9.107–5(a) may, under paragraph (h) of said clause (or the alternate paragraph (h) in § 9.107–5(c)), not later than three months after making such a disclosure, request greater rights than the license reserved to the contractor in paragraph (b) of said clause. Therefore, in the administration of these clauses the contractor shall not be required to execute an assignment until this three-month period has expired, and then usually only if the Government intends to file a patent application.

§ 9.109–5 Register of Government rights in inventions.

(a) Licenses, assignments, or other documents evidencing any rights of the Government in inventions shall be reviewed by the Departments to assure that each such document fully confirms the rights to which the Government is entitled.

(b) The original and a copy of each such document shall be forwarded to the activity designated by Departmental regulations for receiving such documents. This latter activity shall forward the originals of all licenses, assignments, or other documents evidencing any rights of the Government in or under any patents or applications for patents to the Commissioner of Patents for recording in accordance with Executive Order No. 9424 of February 18, 1944.

18. Sections 9.110, 9.111, 9.112, 9.202–3, 9.203(a), 9.204–1, 9.204–2, 9.205–2, 9.206, and 9.207–2 are revised, as follows:

§ 9.110 Reporting of royalties—anticipated or paid.

(a) (1) The term "royalties," as used in this subpart, refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents or patent applications.

(2) In order to determine whether royalties anticipated or actually paid under Government contracts are excessive, improper, or inconsistent with rights which the Government may possess in particular inventions, patents, or patent applications, the Departments shall require royalty information and reports as prescribed below. However, royalty information generally should not be required in formally advertised contracts, or in negotiated contracts for which cost or pricing data is not required under § 3.907–3. See § 9.112 for action to be taken in the event of elimination or reduction of royalties.

(3) Where it is expected that the work may be performed in the United States, its possessions, or Puerto Rico, any solicitation which may result in a negotiated contract estimated to exceed $10,000 shall contain a special provision substantially as follows:

ROYALTY INFORMATION (AUGUST 1961)

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 or contract item;
(vii) Number of units; and
(viii) Total dollar amount of royalties.

DD Form 783, Royalty Report, is approved for use in furnishing the above information. 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.

(b) If the work is to be performed in the United States, its possessions or Puerto Rico, then upon receipt of an offer, proposal, or quotation which includes a charge for royalties, the contracting officer shall, prior to award of the contract, forward the information called for by paragraph (a) of this section to the office having cognizance of patent matters for the procuring activity concerned. The cognizant office shall promptly advise the contracting officer of appropriate action. The contracting officer shall then take action with respect to such royalties, with due regard to all pertinent factors relating to the proposed procurement.

(c) 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 (b) of this section. However, approval need not be withheld pending receipt of advice in regard to such royalties from the office having cognizance of patent matters.

(d) (1) In negotiated contracts to be performed outside the United States, its possessions and Puerto Rico, regardless of the place of delivery, the clause set forth below shall be included. See § 16.806 for an approved form for optional use by contractors in submitting the required report.

REPORTING OF ROYALTIES (FOREIGN) (OCTOBER 1966)

(a) If this contract is in an amount which exceeds fifty thousand U.S. dollars ($50,000), the Contractor shall report in writing to the Contracting Officer during the performance of this contract the amount of royalties paid or to be paid by the Contractor directly to others in the performance of this contract. The Contractor shall also (i) furnish in writing any additional information relating to such royalties as may be requested by the Contracting Officer, and (ii) insert a provision similar to this clause in any subcontract hereunder which involves an amount in excess of the equivalent of fifty thousand U.S. dollars ($50,000).

(b) The term "royalties" as used herein refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like for the use of or for rights in patents or patent applications.

(2) The contracting officer shall forward a copy of each positive royalty report received in accordance with the clause in subparagraph (1) of this paragraph to the office having cognizance of patent matters for the procuring activity concerned.

§ 9.111 Refund of royalties.

When a fixed-price-type 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 example, either a pending antitrust action by the Government or pending or prospective litigation challenging the validity of a patent or patents or the enforceability of an agreement upon which the contractor or subcontractor bases the asserted obligation to pay the royalties to be included in the target or contract price. In the event the contracting officer determines that a refund of royalties clause should be included, the following clause shall be used in firm fixed-price contracts. It shall be appropriately modified for use in incentive contracts.

REFUND OF ROYALTIES (OCTOBER 1966)

(a) The contract price includes certain amounts for royalties payable by the Contractor or subcontractor or both, which amounts have been reported to the Contracting Officer.

(b) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use or for rights in 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 in connection with the performance of this contract and subcontracts hereunder together with the reasons therefor.

(d) The Contractor will be compensated for royalties reported under (c) above only to the extent that such royalties were included in the contract price and are determined by the Contracting Officer to be properly chargeable to the Government and allocable to the contract. Therefore, to the extent that any royalties which are included in the contract price are not in fact paid by the Contractor or are determined by the Contracting Officer not to be properly chargeable to the Government and allocable to the contract, the contract price shall be reduced. Repayment or credit to the Government shall be made as the Contracting Officer directs.

(e) If, at any time within three (3) years subsequent to final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of the royalties included in the final contract price as adjusted pursuant to paragraph (d) above, the Contractor shall promptly notify the Contracting Officer of that fact and shall reimburse the Government in a corresponding amount.

(f) The substance of this clause, including this paragraph (f), shall be included in any

subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds two hundred and fifty dollars ($250).

§ 9.112 Adjustment of royalties.

(a) If at any time the contracting officer has reason to believe that any royalties paid, or to be paid, under an existing or prospective contract or subcontract are inconsistent with Government rights, excessive, or otherwise improper, he shall promptly report the facts to the office having cognizance of patent matters for the procuring activity concerned. The cognizant office shall review the royalties thus reported and such royalties as are reported under §§ 9.110 and 9.111. In coordination with the contracting officer, the cognizant 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) when the royalties in whole or in part otherwise constitute an improper charge; and

(2) In appropriate cases obtain a refund pursuant to a "Refund of Royalties" clause or enter into negotiation for a reduction of royalties.

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

§ 9.202–3 Procedures.

(a) *Deviations.* The authority of § 1.109–2 to make or authorize deviations affecting only one contract or transaction shall not apply to this subpart, but such deviations shall be processed in accordance with the provisions of § 1.109–3.

(b) *Establishing the Government's rights to use technical data acquired.* All technical data specified in a contract or subcontract for delivery thereunder shall be acquired subject to the rights established in the appropriate Rights in Technical Data clauses set forth in this subpart. Except as provided in §§ 1.1707 and 1.1708, and Subpart I, Part 18 of this chapter, no other clauses, directives, standards, specifications or other implementation shall be included, directly or by reference, to enlarge or diminish such rights. The Government's acceptance of technical data subject to limited rights does not impair any rights in such data to which the Government is otherwise entitled or impair the Government's right to use similar or identical data acquired from other sources.

(c) *Marking and identification of technical data.* Technical data delivered to the Government pursuant to any contract requirement shall be marked with the number of the prime contract, and the name and address of the contractor or subcontractor who generated the data. When technical data is received subject to limited rights, such identifying markings and the authorized restrictive legend shall be maintained on all reproductions thereof.

(d) *Unmarked or improperly marked technical data.* (1) Technical data received without a restrictive legend shall be deemed to have been furnished with unlimited rights. However, the contracting officer may permit the contractor to place a restrictive legend on such data within six months of its delivery if the contractor demonstrates that the omission of the legend was inadvertent and the use of the legend is authorized.

(2) Technical data received with a restrictive legend not permitted by the terms of the contract shall be used with limited rights pending inquiry to the contractor whose name appears on the data as the originator. If no response to a properly directed inquiry has been received within 60 days, or if the response fails to show that the restriction was authorized, the cognizant Government personnel shall obliterate such legend, notify the contractor accordingly, and thereafter may use such data as if it were acquired with unlimited rights.

(3) If the contract authorizes the contractor to furnish technical data with limited rights, but the restrictive legend employed by the contractor is not in the form prescribed by the content, the data shall be used with limited rights, and the contractor shall be required to amend the legend to conform with that specified in the contract. If the contractor fails to so amend the legend within 60 days after notice, the cognizant Government personnel shall obliterate the legend, notify the contractor accordingly, and thereafter may use such data with unlimited rights.

(e) *Technical data furnished on a restricted basis in support of a proposal.* When the contracting officer contemplates awarding a contract on a solicited or unsolicited proposal which was offered on a restricted basis (see §§ 3.507 and 4.205–1 of this chapter), he shall ascertain whether to acquire rights to use all or part of the technical data furnished with the proposal. If such rights are desired, the contracting officer shall negotiate with the offerer in accordance with the policies set forth in §§ 9.202–9.202–3. If the offerer agrees to furnish the technical data under the contract, the appropriate clause in § 9.203 shall be inserted in the contract, and the contract shall identify the data to be covered by the clause.

(f) *Delivery of technical data to foreign governments.* As provided in § 9.201(b), limited rights include the right of the Government to deliver the technical data to foreign governments as the national interest of the United States may require, subject to the same limitations which the Government accepts for itself. When the Government proposes to make technical data subject to limited rights available for use by a foreign government, it will, to the maximum extent practicable, give reasonable notice thereof to the contractor or subcontractor who generated the technical data and whose name and address appears thereon.

§ 9.203 Contract clauses.

(a) *General.* In every contract in which technical data is specified to be delivered, insert the clause in paragraph (b) of this section: *Provided*, That such clause shall not be used in contracts

(1) When all technical data to be delivered is to be acquired with unlimited rights pursuant to § 9.202–2(g), in which case the clause in paragraph (d) of this section shall be used;

(2) When existing works are acquired in accordance with § 9.205;

(3) When the clause in § 9.204 is used in accordance with the provisions of § 9.204–2; or

(4) To be performed outside the United States, its territories, possessions, or Puerto Rico, in which case the clause in § 9.206 applies.

In negotiated contracts in which experimental, developmental or research work is specified as an element of contract performance and the contracting officer uses the procedure of § 9.202–2(d) concerning predetermination of rights in data, the clause paragraph in paragraph (c) of this section will be added to the Basic Data clause in paragraph (b) of this section. In any contract in which the ordering data is to be deferred, the clause in paragraph (e) of this section is to be included.

* * * * *

§ 9.204–1 Limitation on Government's right of publication for sale to the general public.

The paragraph set forth below may be added to the clause set forth in § 9.203(b) for use in contracts for research when the contracting officer determines, in consultation with patent or legal counsel, as appropriate, that public dissemination of a work, or certain designated parts of a work specified to be delivered under the contract is in the best interest of the Government and would be facilitated by the Government relinquishing its right to publish the work for sale, or to have others publish the work for sale on behalf of the Government. This paragraph shall not be used otherwise.

( ) *Publication for sale.* If, within the period designated in the Schedule,[*] but in no event later than twenty-four (24) months after final settlement of this contract, the Contractor publishes for sale any Technical Data which are (i) designated in the Schedule as being subject to this paragraph and (ii) delivered under this contract, and promptly notifies the Contracting Officer of these publications, the Government shall not publish such Data for sale or authorize others so to do. This limitation on the Government's right to publish for sale any such Data so published by the Contractor shall continue as long as the Data are protected by copyright and are reasonably available to the public for purchase. As to all such Data not so published by the Contractor, this paragraph shall be of no force or effect.

§ 9.204–2 Production of motion pictures, histories, and other works.

The clause set forth below shall be used in all contracts (a) primarily for the

[*] The word "Schedule" may be replaced by the words "Task Order," or other appropriate reference.

production of motion pictures or television recordings with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like; (b) for histories of the respective Departments or services or units thereof; (c) for works pertaining to recruiting, morale, training, or career guidance; (d) for surveys of Government establishments; and (e) for works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties.

RIGHTS IN DATA—SPECIAL WORKS (OCTOBER 1966)

(a) The term "Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings, or other graphic 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 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 in equity or 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, or 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 hereby grants to the Government a royalty-free, nonexclusive, and irrevocable license throughout the world (i) to publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all Data which is not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract, and (ii) 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, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any Data furnished under this contract, or (ii) 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.

§ 9.205–2 Purchase of existing motion pictures or television recordings.

(a) The following clause shall be used in contracts exclusively for the procurement of existing motion pictures or television recordings. The Schedule of the contract may set forth limitations consistent with the purposes for which the material covered by the contract is being procured. Examples of these limitations are (1) means of exhibition or transmission, (2) time, (3) type of audience, and (4) geographical location. Paragraph (b) of the clause should be modified to make the indemnify coextensive with the rights acquired under paragraph (a) of the clause as limited by the Schedule of the contract.

RIGHTS IN DATA—EXISTING WORKS (OCTOBER 1966)

(a) Except as otherwise provided in the Schedule of this contract, the Contractor hereby grants to the Government a royalty-free, nonexclusive, irrevocable license to distribute, use, and exhibit the material called for under this contract for Governmental purposes throughout the world, and to authorize others to do so.

(b) 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, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the distribution, use, or exhibition of any material furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in said material.

(b) In contracts which call for the modification of existing motion pictures or television recordings through editing, translation, or addition of subject matter, the clause of § 9.204–2, appropriately modified, shall be used.

§ 9.206 Contracts to be performed outside the United States.

(a) Except as otherwise provided in § 6.501 of this chapter, § 9.204–2 or § 9.205, the clause set forth below shall be included in all contracts under which (1) technical data, including reports, drawings, blueprints, or other data is specified to be delivered to the Government, and (2) the work is to be performed outside the United States, its possessions, and Puerto Rico, regardless of the place of delivery.

RIGHTS IN TECHNICAL DATA (FOREIGN) (OCTOBER, 1966)

The U.S. Government may duplicate use, and disclose in any manner for its purposes, including delivery to other governments for the furtherance of mutual defense of the U.S. Government and other governments, all or any part of the technical data including reports, drawings, blueprints, and other data specified to be delivered by the Contractor to the U.S. Government under this contract.

(b) When the contractor is a foreign government, the above clause shall be modified by substituting the name of the foreign government for "Contractor."

§ 9.207–2 Clauses.

(a) The following clause shall be inserted in all fixed-price contracts (except those not exceeding $10,000 or with educational institutions) containing the clause set forth in § 9.203(b).

TECHNICAL DATA—WITHHOLDING OF PAYMENT (OCTOBER 1966)

If "Technical Data" (as defined in the clause of this contract entitled "Rights in Technical Data"), or any part thereof, is not delivered within the time specified by this contract or is deficient upon delivery (including having restrictive markings not specifically authorized by this contract), the Contracting Officer may, until such data is delivered or deficiencies are corrected, withhold payment to the Contractor of ten percent (10%) of the contract price unless a lesser withholding is specified in the Schedule. Payments shall not be withheld nor any other action taken pursuant to this clause where the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of the Contractor within the meaning of the clause hereof entitled "Default." The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

(b) The following clause shall be used in all cost-reimbursement type contracts (except contracts with educational institutions) containing the clause set forth in § 9.203(b).

TECHNICAL DATA—WITHHOLDING OF PAYMENT (OCTOBER 1966)

If "Technical Data" (as defined in the clause of this contract entitled "Rights in Technical Data"), or any part thereof, is not delivered within the time specified by this contract or is deficient upon delivery (including having restrictive markings not specifically authorized by the contract), the Contracting Officer may, until such data is delivered or deficiencies are corrected, withhold payment due the Contractor on account of allowable costs and fixed fee, of ten percent (10%) of the contract price, unless a lesser withholding is specified in the Schedule. Payments shall not be withheld nor any other action taken pursuant to this clause where the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of the Contractor within the meaning of the clause hereof entitled "Excusable Delays." The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

19. Section 9.301–2 is revised; in § 9.302, the section heading and paragraph (a) are revised; § 9.303 is revised; the introductory text of § 9.304–1 is revised; § 9.304–2 is revised; and a new Subpart D is added, as follows:

§ 9.301–2 Policy.

It is Government policy not to pay in connection with its contracts, and not to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the U.S. Government, charges for use of patents in which it holds a royalty-free license or charges for data which it has a right to use and disclose to others, or which is in the public domain, or which the Government has acquired without restriction upon its use and disclosure to others. This policy shall be applied by the Departments (a) in negotiating contract prices for foreign license and technical assistance contracts (§ 9.302) or supply contracts with second sources (§ 9.303), and (b) in commenting on such agreements when they are referred to the Department of Defense by the Department of State pursuant to section 414 of the Mutual Security Act of 1954 as amended (22 U.S.C. 1934) and the International Traffic in Arms Regulations (see § 9.304).

§ 9.302 Foreign license and technical assistance agreements between the Government and domestic concerns.

(a) Contracts between the Government and a primary source to provide technical assistance or patent rights to a second source for the manufacture of supplies or performance of services shall, to the extent practicable, specify the rights in patents and data and any other rights to be supplied to the second source. Each contract shall provide, in connection with any separate agreement between the primary source and the second source for patent rights or technical assistance relating to the articles or services involved in the contract, that—

(1) The primary source and his subcontractors shall not make, on account of any purchases by the Government or by others with funds derived through the Military Assistance Program or otherwise through the Government, any charge to the second source for (i) royalties or amortization for patents or inventions in which the Government holds a royalty-free license, or (ii) data which the Government has the right to possess, use, and disclose to others, or (iii) any technical assistance provided to the second source for which the Government has paid under a contract between the Government and the primary source; and

(2) The separate agreement between the primary and second source shall (i) include a statement referring to the contract between the Government and the primary source, and (ii) conform to the requirements of the International Traffic in Arms Regulations (see § 9.304).

* * * * *

§ 9.303 Supply contracts between the Government and a foreign government or concern.

In negotiating contract prices with a second source, including the redetermination of contract prices, or in determining the allowability of costs under a cost-reimbursement contract with a second source, the contracting officer:

(a) Shall obtain from the second source a detailed statement (see § 9.110 (a)(3)) of royalties, license fees, and other compensation paid or to be paid to a primary source (or any of his subcontractors) for patent rights, rights in data, and other technical assistance provided to the second source, including identification and description of such patents, data and technical assistance; and

(b) Shall not accept or allow charges which in effect are (1) for royalties or amortization for patents or inventions in which the Government holds a royalty-free license, or (2) for data which the Government has a right to possess, use, and disclose to others, or (3) for any technical assistance provided to the second source for which the Government has paid under a contract between the Government and a primary source.

§ 9.304–1 International Traffic in Arms Regulations.

Pursuant tc section 414 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934), the Department of State controls the exportation of data relating to articles designated in the U.S. Munitions List as arms, ammunition, or munitions of war. (The Munitions List and pertinent procedures are set forth in the International Traffic in Arms Regulations, 22 CFR et seq.) Before authorizing such exportation, the Department of State generally requests comments from the Department of Defense. On request of the office of the Assistant Secretary of Defense (International Security Affairs), each Military Department shall submit comments thereon as the basis for a Department of Defense reply to the Department of State. Such comments shall be prepared in the light of the following excerpt from the International Traffic in Arms Regulations.

* * * * *

§ 9.304–2 Review of agreements.

(a) In reviewing foreign license and technical assistance agreements between primary and second sources, the Military Department concerned shall, insofar as its interests are involved, indicate whether the agreement meets the requirements of section 124.04 of the International Traffic in Arms Regulations (see § 9.304–1) or in what respects it is deficient. Paragraphs (b) through (g) of this section provide general guidance.

(b) When it is not reasonably anticipated that the Government will procure from the second source the supplies or services involved in the agreement, or that Military Assistance Program funds will be provided for the procurement of the supplies or services, the following guidance applies.

(1) If the agreement specifies a reduction in charges thereunder, with respect to purchases by or for the Government or by others with funds derived through the Military Assistance Program or otherwise through the Government, in recognition of the Government's rights in patents and data, the Department concerned shall evaluate the amount of the reduction to determine whether it is fair and reasonable in the circumstances, before indicating its approval.

(2) If the agreement does not specify any reduction in charges or otherwise fails to give recognition to the Government's rights in the patents or data involved, approval shall be conditioned upon amendment of the agreement to reflect a reduction, evaluated by the Department concerned as acceptable to the Government, in any charge thereunder with respect to purchases made by or for the Government or by others with funds derived through the Military Assistance Program or otherwise through the Government, in accordance with section 124.04(b) of the International Traffic in Arms Regulations.

(3) If the agreement provides that no charge is to be made to the second source for data or patent rights to the extent of the Government's rights, the Department concerned shall evaluate the acceptability of the provision before indicating its approval.

(4) If time or circumstances do not permit the evaluation called for in subparagraphs (1), (2), or (3) of this paragraph, the guidance in paragraph (c) of this section shall be followed.

(c) When it is not reasonably anticipated that the Government will purchase from the second source the supplies or services involved in the agreement nor that Military Assistance Program funds will be provided for the purchase of the supplies or services, then the following guidance applies.

(1) If the agreement provides for charges to the second source for data or patent rights, it may suffice to fulfill the requirements of section 124.04(b), quoted above, insofar as the Department of Defense is concerned if:

(i) The agreement requires the second source to advise the primary source when he has knowledge of any purchase made or to be made from him by or for the Government or by others with funds derived through the Military Assistance Program or otherwise through the Government;

(ii) The primary source separately agrees with the Government that upon such advice to him from the second source or from the Government or otherwise as to any such a purchase or prospective purchase, he will negotiate with the Department concerned an appropriate reduction in his charges to the second source in recognition of any Government rights in patents or data; and

(iii) The agreement between the primary and second sources further provides that in the event of any such purchase and resulting reduction in charges, the second source shall pass on this reduction to the Government by giving the Government a corresponding reduction in the purchase price of the article or service.

(2) If the agreement provides that no charge is to be made to the second source for data or patent rights to the extent to which the Government has rights, the Department concerned shall:

(i) Evaluate the acceptability of the provision before indicating its approval; or

(ii) Explicitly condition its approval on the right to evaluate the acceptability of the provision at a later time.

(d) When there is a technical assistance agreement between the primary source and the Government related to the agreement between the primary and second sources that is under review, the latter agreement shall reflect the arrangements contemplated with respect thereto by the Government's technical assistance agreement with the primary source.

(e) Every agreement shall provide that any license rights transferred under the agreement are subject to existing rights of the Government.

(f) In connection with every agreement referred to in paragraph (b) of this section, a request shall be made to the primary source (1) to identify the patents, data, and other technical assist-

ance to be provided to the second source by the primary source or any of his subcontractors, (2) to identify any such patents and data in which, to the knowledge of the primary source, the Government may have rights, and (3) to segregate the charges made to the second source for each such category or item of patents, data, and other technical assistance. Reviewing personnel shall verify this information or, where the primary source does not furnish it, obtain such information from Governmental sources so far as practicable.

(g) The Department concerned shall make it clear that its approval of any agreement does not necessarily recognize the propriety of the charges or the amounts thereof, or constitute approval of any of the business arrangements in the agreement, unless the Department expressly intends by its approval to commit itself to the fairness and reasonableness of a particular charge or charges. In any event, a disclaimer should be made to charges or business terms not affecting any purchase made by or for the Government or by others with funds derived through the Military Assistance Program or otherwise through the Government.

Subpart D—Processing of Licenses, Assignments, and Infringement Claims

Sec.

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

§ 9.401 Policy.

Whenever a claim of infringement of privately owned rights in patented inventions or copyrighted works is asserted against any Department or Agency of the Department of Defense, all necessary steps shall be taken to investigate, and to settle administratively, deny, or otherwise dispose of such claim prior to suit against the United States. This subpart does not apply to licenses or assignments acquired by the Department of Defense under the Patent Rights clauses.

§ 9.402 Statutes pertaining to administrative claims of infringement.

Statutes pertaining to administrative claims of infringement in the Department of Defense include the following: the Foreign Assistance Act of 1961, 22 U.S.C. 2356 (formerly the Mutual Security Acts of 1951 and 1954); the Invention Secrecy Act, 35 U.S.C. 181–188; 10 U.S.C. 2386; 28 U.S.C. 1498; and 35 U.S.C. 286.

§ 9.403 Claims for copyright infringement.

The procedures set forth herein will be followed, where applicable, in copyright infringement claims.

§ 9.404 Requirements for filing an administrative claim for patent infringement.

(a) A patent infringement claim for compensation, asserted against the United States under any of the applicable statutes cited in § 9.402, must be actually communicated to and received by a Department, agency, organization, office, or field establishment within the Department of Defense. Claims must be in writing and should include the following:

(1) An allegation of infringement;

(2) A request for compensation, either expressed or implied;

(3) A citation of the patent or patents alleged to be infringed;

(4) A sufficient designation of the alleged infringing item or process to permit identification, giving the military or commercial designation, if known, to the claimant;

(5) A designation of at least one claim of each patent alleged to be infringed; or

(6) As an alternative to subparagraphs (4) and (5) of this paragraph, a certification that the claimant has made a bona fide attempt to determine the item or process which is alleged to infringe, but was unable to do so, giving reasons, and stating a reasonable basis for his belief that his patent or patents are being infringed.

(b) Military Department receiving an allegation of patent infringement which meets the requirements of this paragraph shall acknowledge the same and supply the other Departments [1] which may have an interest therein with a copy of such communication and the acknowledgmen thereof.

(c) If a communication alleging patent infringement is received which does not meet the requirements set forth above, the sender shall be advised in writing:

(1) That his claim for infringement has not been satisfactorily presented; and

(2) Of the elements considered necessary to establish a claim.

(d) A communication making a proffer of a license in which no infringement is alleged shall not be considered as a claim for infringement.

§ 9.405 Indirect notice of patent infringement claims.

(a) A communication by a patent owner to a Department of Defense contractor alleging that the contractor has committed acts of infringement in performance of a Government contract shall not be considered a claim within the meaning of § 9.404 until it meets the requirements specified therein.

(b) Any Military Department receiving an allegation of patent infringement which meets the requirements of § 9.404 shall acknowledge the same and supply the other Departments [1] which may have an interest therein with a copy of such communication and the acknowledgment thereof.

(c) If a communication covering an infringement claim or notice which does not meet the requirements of § 9.404(a) is received from a contractor, the patent owner shall be advised in writing as covered by the instructions of § 9.404(c).

§ 9.406 Investigation and administrative disposition of claims.

An investigation and administrative determination (denial or settlement) of each claim shall be made in accordance with instructions and procedures established by each Military Department, subject to the following:

(a) Where the procurement responsibility for the alleged infringing item or process is assigned to a single Military Department or only one Military Department is the purchaser of the alleged infringing item or process, and the funds of that Department only are to be charged in the settlement of the claim, that Department shall have the sole responsibility for the investigation and administrative determination of the claim and for the execution of any agreement in settlement of the claim. Where, however, funds of another Department are to be charged, in whole or in part, the approval of such Department shall be obtained as required by § 5.1102 of this chapter. Any agreement in settlement of the claim, approved pursuant to § 5.1102 of this chapter, shall be executed by each of the Departments concerned.

(b) Where two or more Military Departments are the respective purchasers of alleged infringing items or processes and the funds of those Departments are to be charged in the settlement of the claim, the investigation and administrative determination shall be the responsibility of the Department having the predominant financial interest in the claim or of the Department or Departments as jointly agreed upon by the Departments concerned. The Department responsible for negotiation shall, throughout the negotiation, coordinate with the other Departments concerned and keep them advised of the status of the negotiation. Any agreement in the

[1] For the Department of the Army, Chief, Patents Division, Office of The Judge Advocate General; for the Department of the Navy, the Patent Counsel for Navy, Office of Naval Research; for the Department of the Air Force, Chief, Patents Division, Office of The Judge Advocate General; for the Defense Supply Agency, The Office of Counsel; and for the Defense Communications Agency, the Counsel.

settlement of the claim shall be executed by each Department concerned.

§ 9.407 Notification and disclosure to claimants.

When a claim is denied, the Department responsible for the administrative determination of the claim shall so notify the claimant or his authorized representative and provide the claimant a reasonable rationale of the basis for denying the claim. Disclosure of information or the rationale referred to above shall be subject to applicable statutes, regulations, and directives pertaining to security, access to official records, and the rights of others.

§ 9.408 Settlement of indemnified claims.

Settlement of claims involving payment for past infringement shall not be made without the consent of, and equitable contribution by, each indemnifying contractor involved, unless such settlement is determined to be in the best interests of the Government and is coordinated with the Department of Justice with a view to preserving any rights of the Government against the contractors involved. If consent of and equitable contribution by the contractors are obtained, the settlement need not be coordinated with the Department of Justice.

§ 9.409 Patent releases, license agreements, and assignments.

Sections 9.409—9.409–4 contain clauses for use in patent release and settlement agreements, license agreements, and assignments, executed by the Government, under which the Government acquires rights.

§ 9.409–1 Required clauses.

Minor modifications of language (e.g., pluralization of "Secretary" or "Contracting Officer") in multidepartmental agreements may be made if necessary.

(a) *Officials not to benefit.* Insert the clause in § 7.103–19 of this chapter.

(b) *Covenant against contingent fees.* Insert the clause in § 7.103–20 of this chapter.

(c) *Gratuities.* Insert the clause in § 7.104–16 of this chapter.

(d) *Assignment of claims.* Insert the clause in § 7.103–8 of this chapter.

(e) *Disputes.* In accordance with the provisions of § 7.103–12 of this chapter, insert the appropriate clause set forth therein.

(f) *Nonestoppel.*

NONESTOPPEL (OCTOBER 1966)

The Government reserves the right at any time to contest the enforceability, validity, scope of, or the title to any patent or patent application herein licensed without waiving or forfeiting any right under this contract.

§ 9.409–2 Clauses to be used when applicable.

(a) *Release of past infringement.* The following clause is an example which may be modified or omitted as appropriate for particular circumstances, but only upon the advice of cognizant patent or legal counsel.[5]

RELEASE OF PAST INFRINGEMENT

The Contractor hereby releases each and every claim and demand which he now has or may hereafter have against the Government for the manufacture or use by or for the Government, prior to the effective date of this contract, of any inventions covered by (i) any of the patents and applications for patent identified in this contract, [and (ii) any other patent or application for patent owned or hereafter acquired by him, insofar as and only to the extent that such other patent or patent application covers the manufacture, use, or disposition of (description of subject matter).][6]

(b) *Readjustment of payments.* The following clause shall be inserted in contracts providing for payment of a running royalty:

READJUSTMENT OF PAYMENTS (OCTOBER 1966)

(a) If any license, under substantially the same patents and authorizing substantially the same acts which are authorized under this contract, has been or shall hereafter be granted within the United States, on royalty terms which are more favorable to the licensee than those contained herein, the Government shall be entitled to the benefit of such more favorable terms with respect to all royalties accruing under this contract after the date such more favorable terms become effective, and the Contractor shall promptly notify the Secretary in writing of the granting of such more favorable terms.

(b) In the event any claim of any patent hereby licensed is construed or held invalid by decision of a court of competent jurisdiction, the requirement to pay royalties under this contract insofar as it arises solely by reason of such claim, and any other claim not materially different therefrom, shall be interpreted in conformity with the court's decision as to the scope or validity of such claims: *Provided, however,* That in the event such decision is modified or reversed on appeal, the requirement to pay royalties under this contract shall be interpreted in conformity with the final decision rendered on such appeal.

(c) *Termination.* The following clause is an example for use in contracts providing for the payment of a running royalty. This clause may be modified or omitted as appropriate for particular circumstances, but only upon the advice of cognizant patent or legal counsel.[7]

TERMINATION

Notwithstanding any other provision of this contract, the Government shall have the right to terminate the within license, in whole or in part, by giving the Contractor not less than thirty (30) days notice in writing of the date such termination is to be effective: *Provided, however,* That such termination shall not affect the obligation of the Government to pay royalties which have accrued prior to the effective date of such termination.

§ 9.409–3 Additional clauses—contracts except running royalty contracts.

The following clauses are examples for use in patent release and settlement agreements, and license agreements not providing for payment by the Government of a running royalty.

(a) *License grant.*

LICENSE GRANT

(a) The Contractor hereby grants to the Government an irrevocable, nonexclusive, nontransferable, and paid up license under the following patents, applications for patent, and any patents granted on such applications, and under any patents which may issue as the result of any reissue, division or continuation thereof, to practice by or cause to be practiced for the Government throughout the world, any and all of the inventions thereunder, in the manufacture and use of any article or material, in the use of any method or process, and in the disposition of any article or material in accordance with law:

U.S. Patent No. _____ Date_____.

Application Serial No. _____ Filing Date_____ together with corresponding foreign patents and foreign applications for patents, insofar as the Contractor has the right to grant licenses thereunder without incurring an obligation to pay royalties or other compensation to others solely on account of such grant.

(b) No rights are granted or implied by the agreement under any other patents other than as provided above or by operation of law.

(c) Nothing contained herein shall limit any rights which the Government may have obtained by virtue by prior contracts or by operation of law or otherwise.

(b) *License term.* One of the following clauses may be used as appropriate.

(ALTERNATE A)

LICENSE TERM

The license hereby granted shall remain in full force and effect for the full term of each of the patents referred to in the "License Grant" clause of this contract and any and all patents hereafter issued on applications for patent referred to in such "License Grant" clause.

(ALTERNATE B)

LICENSE TERM

The license hereby granted shall terminate on the _____ day of _____ 19_____; *Provided, however,* That said termination shall be without prejudice to the completion of any contract entered into by the Government prior to said date of termination or to the use or disposition thereafter of any articles or materials manufactured by or for the Government under this license.

§ 9.409–4 Additional clauses—contracts providing for payment of a running royalty.

The clauses set forth below are examples which may be used in patent release and settlement agreements, and license agreements, when it is desired to cover the subject matter thereof and the contract provides for payment of a running royalty.

(a) *License grant.* No Military Department shall be obligated to pay royalties unless the contract is signed on behalf of such Department. Accord-

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[5] For the Department of the Army: Chief, Patents Division, Office of The Judge Advocate General; for the Department of the Air Force: Chief, Patents Division, Office of The Judge Advocate General; and for the Defense Supply Agency: The Patent Counsel.

[6] Bracketed portions of the clause may be omitted when not appropriate or not encompassed by the release as negotiated.

[7] For the Department of the Army: Chief, Patents Division, Office of The Judge Advocate General; for the Department of the Air Force: Chief, Patents Division, Office of The Judge Advocate General; and for the Defense Supply Agency: The Patent Counsel.

ingly, the following License Grant clause should be limited to the practice of the invention by or for the signatory Department or Departments:

LICENSE GRANT

(a) The Contractor hereby grants to the Government, as represented by the Secretary of _____, an irrevocable, nonexclusive, nontransferable license under the following patents, applications for patent, and any patents granted on such applications, and under any patents which may issue as the result of any reissue, division, or continuation thereunder to practice by, or cause to be practiced for the Department of _____, throughout the world, any and all of the inventions thereunder in the manufacture and use of any article or material, in the use of any method or process, and in the disposition of any article or material in accordance with law:

U.S. Patent No. _____ Date _____

Application Serial No. _____ Filing Date _____ together with corresponding foreign patents and foreign applications for patent, insofar as the Contractor has the right to grant licenses thereunder without incurring an obligation to pay royalties or other compensation to others solely on account of such grant.

(b) No rights are granted or implied by the agreement under any other patents other than as provided above or by operation of law.

(c) Nothing contained herein shall limit any rights which the Government may have obtained by virtue of prior contracts or by operation of law or otherwise.

(b) *License term.* The following clause is a sample form for expressing the license term.

LICENSE TERM

The license hereby granted shall remain in full force and effect for the full term of each of the patents referred to in the "License Grant" clause of this contract and any and all patents hereafter issued on applications for patent referred to above unless sooner terminated as elsewhere herein provided.

(c) *Computation of royalties.* The following clause, providing for the computation of royalties, may be of varying scope depending upon the nature of the royalty bearing article, the volume of procurement, and the type of contract pursuant to which the procurement is to be accomplished.

COMPUTATION OF ROYALTIES

Subject to the conditions hereinafter stated, royalties shall accrue to the Contractor under this agreement on all articles or materials embodying, or manufactured by the use of, any or all inventions claimed under any unexpired U.S. patent licensed herein, upon acceptance thereof by the Department of _____, at the rate of [_____ percent of the net selling price of such articles or materials] [(amount) per (name of item)][*] whether manufactured by the Government or procured under a fixed price contract, and at the rate of (amount) per (name of item) acquired or manufactured by a Contractor performing under a cost-reimbursement contract. With respect to such articles or materials made by the Department of _____, "net selling price," as used in this paragraph, means the actual cost of direct labor and materials without allowance for overhead and supervision.

[*] Use bracketed matter as appropriate.

(d) *Reporting and payment of royalties.* (1) The contract should contain a provision specifying the office designated within the specific Department involved to make any necessary reports to the contractor of the extent of use of the licensed subject matter by the entire Department, and such office shall be charged with the responsibility of obtaining from all procuring offices of that Department the information necessary to make the required reports and corresponding vouchers necessary to make the required payments. The following clause is a sample for expressing reporting and payment of royalties requirements:

REPORTING AND PAYMENT OF ROYALTIES

(a) The (procuring office) shall, on or before the sixtieth (60th) day next following the end of each yearly[*] period ending _____ during which royalties have accrued under this license, deliver to the Contractor, subject to military security regulations, a report in writing furnishing necessary information relative to royalties which have accrued under this contract.

(b) Royalties which have accrued under this contract during the yearly[10] period ending _____ shall be paid to the Contractor (if appropriations therefor are available or become available) within sixty (60) days next following the receipt of a voucher from the Contractor submitted in accordance with the report referred to in (a) of this clause: *Provided*, That the Government shall not be obligated to pay, in respect of any such yearly period, on account of the combined royalties accruing under this contract directly and under any separate licenses granted pursuant to the "License to Other Government Agencies" clause (if any) of this contract, an amount greater than _____ ($_____) dollars; and if such combined royalties exceed the said maximum yearly obligation, each department or agency shall pay a pro rata share of the said maximum yearly obligation as determined by the proportion its accrued royalties bear to the combined total of accrued royalties.

(2) Where more than one Department or Government Agency is licensed and there is a ceiling on the royalties payable in any reporting period, the licensing Departments or Agencies shall coordinate with respect to the pro rata share of royalties to be paid by each.

(e) *License to other Government agencies.* When it is intended that a license on the same terms and conditions be available to other departments and agencies of the Government, the following clause is an example which may be used:

LICENSE TO OTHER GOVERNMENT AGENCIES

The Contractor hereby agrees to grant a separate license under the patents, applications for patents, and improvements referred to in the "License Grant" clause of this contract, on the same terms and conditions as appear in this license contract, to any other department or agency of the Government at any time on receipt of a written request for such a license from such department or agency: *Provided, however*, That as to royalties which accrue under such separate licenses, reports and payments shall be made directly to the Contractor by each such other department or agency pursuant to the terms of such separate licenses. The Contractor shall notify the Licensee hereunder promptly upon receipt of any request for license hereunder.

[*] The frequency, date, and length of reporting periods should be selected as appropriate to the particular circumstances of the contract.

[10] The frequency, date, and length of reporting periods should be selected as appropriate to the particular circumstances of the contract.

§ 9.410 Assignments.

(a) The following clause is an example which may be used in contracts of assignment of patent rights to the Government:

ASSIGNMENT

The Contractor hereby conveys to the Government, as represented by the Secretary of _____, the entire right, title, and interest in and to the following patents (and applications for patent), in and to the inventions thereof, and in and to all claims and demands whatsoever for infringement thereof heretofore accrued, the same to be held and enjoyed by the Government through its duly appointed representatives to the full end of the term of said patents (and to the full end of the terms of all patents which may be granted upon said applications for patent, or upon any division, continuation-in-part or continuation thereof):

U.S. Patent No.	Date	Name of Inventor
_____	_____	_____
_____	_____	_____
U.S. Application Serial No.	Filing Date	Name of Inventor
_____	_____	_____
_____	_____	_____

together with corresponding foreign patents and applications for patent insofar as the Contractor has the right to assign the same.

(b) To facilitate proof of contracts of assignments, the acknowledgement of the contractor should be executed before a notary public or other officer authorized to administer oaths (35 U.S.C. 261).

§ 9.411 Procurement of invention and patent rights.

Even though no infringement has occurred or been alleged, it is the policy of the Department of Defense to procure rights under patents and patent applications whenever it is in the Government's interest to do so and the desired rights can be obtained at a fair price. The required and suggested clauses in §§ 9.409 and 9.410 shall be required and suggested clauses, respectively, for license agreements and assignments made under this section. The instructions in §§ 9.409 and 9.410 concerning the applicability and use of those clauses shall be followed insofar as they are pertinent.

§ 9.412 Contract format.

The following format, appropriately modified where necessary, may be used for contracts of release, license, or assignment:

Contract No _____

PATENT LICENSE AND RELEASE CONTRACT

This contract is effective as of the ____ day of _____ 19__, between the United States of America (hereinafter called the Government), and _____ (hereinafter called the Contractor), [a corporation organized and existing under the laws of the State of _____,) (a partnership consist-

ing of ----------,) (an individual trading as ----------,)] of the City of ---------- in the State of ----------.

Whereas, Contractor warrants that he has the right to grant the within license and release, and the Government desires to procure the same, and

Whereas, this contract is authorized by law, including 10 U.S.C. 2386,

Now therefore, in consideration of the grant, release and agreements hereinafter recited, the parties have agreed as follows:

Article 1. License Grant.[11]

(Insert the clause in 9-409.3(a) for a paid up license, or the clause in 9-409.4(a) for a license on a running royalty basis.)

Article 2. License Term.[11]

(Insert the appropriate alternative clause in 9-409.3(b) for a paid up license, or the clause in 9-409.4(b) for a license on a running royalty basis.)

Article 3. Release of Past Infringement.

(Insert the clause in 9-409.2(a).)

Article 4. Nonestoppel.

(Insert the clause in 9-409.1(f).)

Article 5. Payment.

The Contractor shall be paid the sum of ---------- Dollars ($----------) in full compensation for the rights herein granted and agreed to be granted. (For a license on a running royalty basis, insert the clause in 9-409.4(c) in accordance with the instructions therein, and also the clause as specified in 9-409.2(b) and 9-409.4 (d) and (e).)

Article 6. Officials Not to Benefit.

(Insert the clause in 7-103.19.)

Article 7. Covenant Against Contingent Fees.

(Insert the clause in 7-103.20.)

Article 8. Assignment of Claims.

(Insert the clause in 7-103.6.)

Article 9. Gratuities.

(Insert the clause in 7-104.16.)

Article 10. Disputes.

(Insert the clause in 7-103.12.)

Article 11. Successors and Assignees.

This Agreement shall be binding upon the Contractor, his successors[12] and assignees, but nothing contained in this Article shall authorize an assignment of any claim against the Government otherwise than as permitted by law.

In witness whereof, the parties hereto have executed this contract.

THE UNITED STATES OF AMERICA

By ----------

Date ----------

By ----------

(Signature and title of contractor)

Date ----------

§ 9.413 Recordation.

Executive Order No. 9424 of February 18, 1944, requires all executive Departments and agencies of the Government to forward through appropriate channels to the Commissioner of Patents for recording, all Government interests in patents or applications for patents.

PART 10—BONDS, INSURANCE, AND INDEMNIFICATION

20. Sections 10.104-2(b), 10.105-3(a), and 10.110(b) are revised to read as follows:

[11] If only a release is procured delete this article; if an assignment is procured, use the clause in 9-410.

[12] When the contractor is an individual, change "successors" to "heirs"; if a partnership, modify appropriately.

§ 10.104-2 Performance bonds.

* * * * *

(b) Subject to the general policy stated in paragraph (a) of this section, determinations that performance bonds will be required in specified classes of cases (e.g., for particular types of supplies or services) may be made (1) for the Army, by the Director and Deputy Director of Procurement and Production, Army Materiel Command, and by all Heads of Procuring Activities not subordinate to that command; (2) for the Navy, by the Chief of Naval Material; (3) for the Air Force, by the Deputy Chief of Staff, Systems and Logistics; (4) for the Defense Supply Agency, by the Executive Director, Procurement and Production; and (5) for the Defense Atomic Support Agency, by the Director. A copy of each such determination covering a class of cases shall be forwarded to the Office of Assistant Secretary of Defense (Installations and Logistics) for the information.

* * * * *

§ 10.105-3 Fidelity and forgery bonds.

(a) Fidelity and forgery bonds are not generally required in any procurement. However, in connection with cost-reimbursement contracts for supplies, construction, or for operation of Government-owned plants, such bonds may be required when necessary for the protection of the Government or the contractor, or when it is considered desirable to obtain the investigative and claims services of a surety company. Approval for requiring these bonds shall be obtained, (1) for the Army, by the Head of a Procuring Activity; (2) for the Navy, by the Chief of Naval Material (MAT-024); (3) for the Air Force, by the Air Force Logistics Command (MCPC); and (4) for the Defense Supply Agency, by the Head of a Procuring Activity.

* * * * *

§ 10.110 Substitution of surety bonds.

* * * * *

(b) For the Navy, by the Chief of Naval Material (MAT-024);

* * * * *

PART 11—FEDERAL, STATE AND LOCAL TAXES

21. Sections 11.403, 11.403-1(a), and 11.403-2 are revised, and § 11.404 is revoked, as follows:

§ 11.403 Foreign tax clauses.

§ 11.403-1 General.

(a) *Use of clauses.* Tax agreements have been made with Belgium, Denmark, France, Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, Norway, the Philippines, Portugal, Spain, Turkey, the United Kingdom, and Yugoslavia, under which the U.S. expenditures for the common defense are exempt from certain specified taxes of the countries in which these expenditures are made. Countries which have not executed a tax agreement with the United States may nevertheless grant relief from certain internal taxes in order to promote or subsidize exports. Accordingly, the appropriate clause of those contained in § 11.403-2 shall be included in all contracts to be performed by contractors or by foreign governments in foreign countries. However, such clauses need not be included in contracts under $1,000 if the contracting officer determines that the administrative burden of securing relief from such taxes would be out of proportion to the relief obtained; *Provided*, That such clauses shall be included in all contracts in support of NATO infrastructure programs involving the expenditure of funds under section 503(b) of the Foreign Assistance Act of 1961, as amended.

* * * * *

§ 11.403-2 Contract clauses.

(a) *Fixed-price contracts, other than with foreign governments.*

Except as provided in § 11.403-1(a), the following clause shall be included in all fixed-price contracts (other than contracts with foreign governments) to be performed wholly or partly in a foreign country, regardless of whether a tax agreement is in effect between the United States and the foreign country.

TAXES, DUTIES, AND CHARGES FOR DOING BUSINESS (OCTOBER 1966)

(a) To the extent that this contract provides for the furnishing of supplies or the performance of services outside the United States, its possessions, and Puerto Rico, the following clause is applicable in lieu of the clause in this contract, if any, entitled "Federal, State, and Local Taxes."

(b) As used throughout this clause, the words and terms defined in this paragraph shall have the meanings set forth herein.

(i) The term "country concerned" means any country in which expenditures under this contract are made.

(ii) The words "tax" and "taxes" include fees and charges for doing business that are levied by the government of the country concerned or by political subdivisions thereof.

(iii) The term "contract date" means the date of this contract or, if this is a formally advertised contract, the date set for bid opening; as to additional supplies or services procured by modification to this contract, the term means the date of the modification.

(c) Except as may be otherwise provided in this contract, the contract price includes all taxes and duties in effect and applicable to this contract on the contract date, except taxes and duties (i) from which the Government of the United States, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or political subdivision thereof, or (ii) which the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(d) (1) If the Contractor is required to pay or bear the burden—

(i) Of any tax or duty which either was not to be included in the contract price pursuant to the requirements of paragraph (c) hereof, or was specifically excluded from the contract price by a provision of this contract; or

(ii) Of an increase in rate of any tax or duty, whether or not such tax or duty was excluded from the contract price; or

(iii) Of any interest or penalty on any tax or duty referred to in (i) or (ii) above,

the contract price shall be correspondingly increased: *Provided*, That the Contractor warrants in writing that no amount of such tax, duty, or increase therein was included in the contract price as a contingency reserve or otherwise: *And provided further*, That liability for such tax, duty, increase therein, interest or penalty was not incurred through the fault or negligence of the Contractor or his failure to follow instructions of the Contracting Officer or to comply with the provisions of subparagraph (e)(1) below.

(2) If the Contractor is not required to pay or bear the burden, or obtains a refund or drawback, in whole or in part, of any tax, duty, increase therein, interest or penalty which (i) was to be included in the contract price pursuant to the requirements of paragraph (c), (ii) was included in the contract price, or (iii) was the basis of an increase in the contract price, the contract price shall be correspondingly decreased or the amount of such relief, refund, or drawback shall be paid to the Government of the United States, as directed by the Contracting Officer. The contract price also shall be correspondingly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer or to comply with the provisions of subparagraph (e)(1) below, is required to pay or bear the burden, or does not obtain a refund or drawback of any such tax, duty, increase therein, interest or penalty. Interest paid or credited to the Contractor incident to a refund of taxes or duties shall inure to the benefit of the Government of the United States to the extent that such interest was earned after the Contractor was paid or reimbursed by the Government of the United States for such taxes or duties.

(3) If the Contractor obtains a reduction in his tax liability under the U.S. Internal Revenue Code of 1954, as amended (Title 26, U.S. Code), on account of the payment of any tax or duty which either (i) was to be included in the contract price pursuant to the requirements of paragraph (c) of this clause, (ii) was included in the contract price, or (iii) was the basis of an increase in the contract price, the amount of the reduction shall be paid or credited to the Government of the United States as the Contracting Officer directs.

(4) Invoices or vouchers covering any adjustment of the contract price pursuant to this paragraph (d) shall set forth the amount thereof as a separate item and shall identify the particular tax or duty involved.

(5) No adjustment in the contract price or payment or credit to the United States is required pursuant to this paragraph (d) if the total amount thereof for the contract period will be less than one hundred dollars ($100).

(6) Subparagraphs (1) and (2) of this paragraph (d) shall not be applicable to social security taxes; income and franchise taxes, other than those levied on or measured by (i) sales or receipts from sales, or (ii) the Contractor's possession of, interest in, or use of property, title to which is in the Government; excess profits taxes; capital stock taxes; transportation taxes; unemployment compensation taxes; or property taxes, other than such property taxes, allocable to this contract, as are assessed either on completed supplies covered by this contract, or on the Contractor's possession of, interest in, or use of property, title to which is in the Government.

(e) (1) The Contractor shall take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the U.S. Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or political subdivisions thereof, or which the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(2) The Contractor shall promptly notify the Contracting Officer of all matters pertaining to taxes or duties which reasonably may be expected to result in either an increase or a decrease in the contract price.

(3) Whenever an increase or decrease in the contract price may be required under this clause, the Contractor shall take action as directed by the Contracting Officer, and the contract price shall be equitably adjusted to cover the cost of such action, including any interest, penalty, and reasonable attorneys' fees.

(b) *Fixed-price contracts with foreign governments.* Except as provided in § 11.403–1(a), the following clause shall be inserted in all fixed-price contracts to be performed by foreign governments.

TAXES (JULY 1960)

(a) The contract price, including the prices in any subcontracts hereunder, does not include any tax or duty which the Government of the United States and the Government of _____ have agreed shall not be applicable to expenditures made by the United States in _____, or any tax or duty not applicable to this contract or any subcontracts hereunder, pursuant to the laws of _____. If any such tax or duty has been included in the contract price through error or otherwise, the contract price shall be correspondingly reduced.

(b) If, after the contract date, the Government of the United States and the Government of _____ shall agree that any tax or duty included in the contract price shall not be applicable to expenditures by the United States in _____, the contract price shall be reduced accordingly.

(c) *Cost-reimbursement contracts, other than with foreign governments.* Except as provided in § 11.403–1(a), the following clause shall be inserted in all cost-reimbursement contracts (other than contracts with foreign governments) to be performed wholly or partly in a foreign country.

TAXES (JULY 1960)

Any tax or duty from which the U.S. Government is exempt by agreement with the Government of _____, or from which the Contractor or any subcontractor hereunder is exempt under the laws of _____, shall not constitute an allowable cost under this contract.

(d) *Cost-reimbursement contracts with foreign governments.* Except as provided in § 11.403–1(a), the following clause shall be inserted in all cost-reimbursement contracts with foreign governments.

TAXES (JULY 1960)

Any tax or duty from which the U.S. Government is exempt by agreement with the Government of _____, or from which any subcontractor hereunder is exempt under the laws of _____, shall not constitute an allowable cost under this contract.

§ 11.404 Clause for use where foreign agreements do not apply. [Revoked]

PART 12—LABOR

22. Sections 12.000, 12.102–4(b), and 12.106 are revised; new §§ 12.106–1 and 12.106–2 are added; §§ 12.300 and 12.304 are revised; and Subpart D is revoked, with a cross reference appearing after the subpart heading, as follows:

§ 12.000 Scope of part.

This part (a) deals with general policies regarding labor, so far as they relate to procurements; (b) sets forth certain pertinent labor laws and requirements, indicating in connection with each its applicability and any procedures thereunder; and (c) prescribes the contract clauses with respect to each labor law or requirement. Labor standards and clauses which are applicable only to construction contracts are treated separately in Subpart G, Part 18 of this chapter.

§ 12.102–4 Approvals.

* * * * *

(b) The Director of Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics), for the Army; the Chief of Naval Material, for the Navy; the Director of Procurement Management, Headquarters, USAF, for the Air Force; the Executive Director for Procurement and Production, for the Defense Supply Agency; and the Director, Defense Atomic Supply Agency, are authorized, without power of delegation, to designate officers and civilian officials for the purpose of approving overtime premiums at Government expense.

* * * * *

§ 12.106 Supply, services, or maintenance contracts involving construction work.

The requirements of statutes, regulations, and determinations establishing construction labor standards are set forth in Subpart G, Part 18 of this chapter. In many instances, construction items under supply, service, maintenance, research and development, and other nonconstruction contracts are not subject to the requirements of Subpart G, Part 18, of this chapter, although this is not necessarily always the case simply because the construction work is to be performed under a contract which also calls for nonconstruction work. This section governs the applicability of those requirements to contracts involving both construction and nonconstruction work.

§ 12.106–1 When construction labor standards and clauses are applicable.

(a) Contracts involving both construction and nonconstruction work are in general subject to the requirements of Subpart G, Part 18 of this chapter, and must include the appropriate clauses of § 18.703 if:

(1) The contract contains specific requirements for substantial amounts of construction work, or it is ascertainable at the contract date that a substantial amount of construction work will be necessary for the performance of the contract (the word "substantial" relates

to the type and quantity of construction work to be performed and not merely to the total value of construction work as compared to the total value of the contract); and

(2) The construction work is physically or functionally separate from, and as a practical matter is capable of being performed on a segregated basis from, the other work called for by the contract; and

(3) The requirements are otherwise applicable to the contract (see § 18.701).

(b) Even though the contract contains construction labor clauses pursuant to paragraph (a) of this section, the nonconstruction work under the contract is not subject to those clauses, because they provide that they are applicable to the contract work only to the extent that the work is subject to the labor standards statutes involved.

§ 12.106–2 When construction labor standards and clauses are not applicable.

Construction work is exempt from the requirements of Subpart G, Part 18 of this chapter, when (a) it is to be performed in support of construction work, such as manufacturing and furnishing of supplies, and (b) in the circumstances of the particular case the construction work is so merged with the nonconstruction work, or so fragmented in terms of the locations or time spans in which it is to be performed, that it cannot be segregated as a separate contractual requirement for construction. Accordingly, contracts involving both nonconstruction work and this type of construction work are not subject to the requirements of Subpart G, Part 18 of this chapter.

§ 12.300 Scope of subpart.

This subpart deals with the requirements of the Contract Work Hours Standards Act (40 U.S.C. 327–330) applicable to contracts other than construction contracts as defined and covered in Subpart G, Part 18 of this chapter.

§ 12.304 Administration and enforcement.

In investigating allegations of violations of the Contract Work Hours Standards Act on other than construction contracts, the same procedures shall be followed and the same reports made as set forth in §§ 18.704–9, 18.704–10, and 18.704–12.

Subpart D—Labor Standards in Construction Contracts [Revoked]

See Subpart G, Part 18 of this chapter.

PART 16—PROCUREMENT FORMS

23. In § 16.202(b)(2), subdivision (v) is revised; in § 16.404–1, paragraphs (a) and (c) are revised; in § 16.404–2, item 19, under Alternate 2(b), is revised; and §§ 16.600, 16.601, and 16.803–1 are revised, as follows:

§ 16.202 Negotiated Contract Forms (DD Form 1261 and ASPR Form 1270).

* * * * *

(b) * * *

(2) * * *

(v) The Communist Areas Clause (§ 6.403) shall be inserted in the Schedule where appropriate.

* * * * *

§ 16.404–1 General.

(a) The provisions of the Davis-Bacon Act relating to the predetermination of minimum wages for mechanics and laborers do not apply to contracts for dismantling, demolition or removal of improvements, unless the contract is performed in support of another contract subject to those provisions.

* * * * *

(c) The provisions of the Miller Act regarding performance and payment bonds do not apply to contracts for dismantling, demolition or removal of improvements, unless the contract is performed in support of another contract subject to those provisions. In all cases, however, the contractor shall be required to furnish a performance bond in a penal amount deemed adequate to assure completion of the work and to protect the Government against damage to adjoining property during its performance, irrespective of the fact that complete payment under the contract may be made to the Government by the contractor prior to inception of the work. The amount shall be determined in advance of bidding and shall be set forth in the invitation for bids.

* * * * *

§ 16.404–2 Contract format.

* * * * *

Alternate 2 * * *

(b) * * *

19. Contract Work Hours Standards Act—Overtime Compensation. (Insert the clause set forth in 12–303.1.)

* * * * *

§ 16.600 Scope of part.

This part prescribes forms to be used by a Requiring Department to request that supplies or services be procured or furnished by another Department in accordance with the provisions of Subparts K and L, Part 5 of this chapter.

§ 16.601 Military Interdepartmental Purchase Request (MIPR) (DD Form 448, 448c).

DD Form 448 shall be used by the Requiring Departments to:

(a) Request the procurement or furnishing of supplies or services by the procuring department; and

(b) Permit the procuring department to authorize manufacture of the necessary supplies.

When a continuation sheet is necessary, DD Form 448c shall be used.

§ 16.803–1 Construction contracts.

(a) Department of Labor Form DB–11 (Request for Determination) shall be used, in accordance with the provisions of § 18.704–2, of this chapter for the submission of requests for the determination of wage rates by the Secretary of Labor.

(b) Standard Form 1093 (Schedule of Withholdings under the Davis-Bacon Act), shall be used, in accordance with the provisions of § 18.704–13, of this chapter, to report deductions against payment vouchers of contractors on account of failure to comply with labor laws, regulations, and clauses. To facilitate the work of contracting agencies in computing underpayments (and where applicable, Eight-Hour Laws penalties) in investigation reports involving apparent violations of the Davis-Bacon and related Acts, the Department of Labor has developed and will furnish, on request, Form SOL–164 "Wage Computation and Transcription Sheet." Use of this form is optional; its use will also facilitate review of investigation reports.

(c)(1) The weekly payroll statement required by the contract clauses prescribed by § 18.703–1 or § 18.703–3 of this chapter should be in one of the following forms:

(i) "Payroll (For Contractor's Optional Use)," Form SOL–184 (4–30–59) U.S. Department of Labor.

(ii) "Contractor's Weekly Payroll Statement," DD Form 879.

(iii) The contractor's own combined payroll-statement form, provided the statement is reproduced in exactly the language of Form SOL–184 or DD Form 879 and the signer certifies on the statement: "The language of this statement is exactly the language of ----------".

(2) A supply of DD Forms 879 may be furnished to the contractors for their use. Forms SOL–184 may be purchased from the Government Printing Office.

PART 17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

24. Paragraph (h) of § 17.206 is revised to read as follows:

§ 17.206 Contractual requirements.

* * * * *

(h) If otherwise applicable, the contract clause entitled "Walsh-Healey Public Contracts Act," "Davis-Bacon Act," "Copeland ('Anti-Kickback') Act—Nonrebate of Wages," and "Contract Work Hours Standards Act—Overtime Compensation," as set forth respectively in §§ 12.605 and 18.703.

* * * * *

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

25. Sections 18.100, 18.101–2, 18.206, 18.208, 18.210, 18.602, and 18.618–9 are revised; a new Subpart G is added; and § 18.906 is revised, as follows:

§ 18.100 Scope of part.

This part sets forth contracting procedures peculiar to construction contracts. Where a contract covers the procurement of both construction and supplies

or services, the contract shall include provisions applicable to the predominant part of the work, or shall be divided into parts, and include the provisions appropriate for each part, but see § 12.106 of this chapter. It does not contain or cross-reference all provisions of this subchapter which apply to such contracts. Other provisions of this subchapter are also applicable to construction contracts and shall be adhered to where applicable. All contracts mentioned in this part shall be deemed to mean construction contracts unless specifically described otherwise. Where a provision in this part is clearly inconsistent with a provision in another part of this subchapter, the provision of this part shall apply, where construction is involved.

§ 18.101–2 Construction activity.

"Construction activity" means an activity, at any organizational level of the Military Departments, which has responsibility for the architectural, engineering, and other related technical aspects of the planning, design, and construction of facilities, and which receives its technical guidance from the Army Office of the Chief of Engineers, Naval Facilities Engineering Command, or Air Force Directorate of Civil Engineering.

§ 18.206 Amendment of invitation for bids.

See §§ 2.208 and 16.401–1(h) of this chapter and § 18.704–2. When an amendment will require additional time for bidders to prepare bids, the time for bidding shall be appropriately extended, except in emergencies, and consideration shall be given to notifying bidders by telephone or telegraph of the forthcoming amendment to minimize disruption of their bid preparations. Where such an amendment is issued within a period of ten days prior to the date set for bid opening, a minimum of ten days lead time, except in emergencies, shall be allowed prospective bidders to prepare new or revised bids. The nature of any emergency preventing a ten day lead time will be documented.

§ 18.208 Cancellation of invitations for bids.

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

(b) After opening, sec. § 2.404–1 of this chapter and § 18.704–2.

§ 18.210 Award.

No award shall be made at a price which, with allowances for Government imposed contingencies and overhead, exceeds the statutory authorization for the project unless the limitations for a particular contract can be and have been waived (see § 18.110(c)). The effect of changes in wage rate determinations on award is discussed in § 18.704–2.

§ 18.602 Final payment.

See § 8.212–2 of this chapter. Prior to presenting the final payment voucher to the disbursing officer, after termination action, the contracting officer shall ascertain whether there are any outstanding labor violations. If so, the contracting officer shall determine, pursuant to the criteria set forth in § 18.704–13, the amount to be withheld from the final payment voucher by reason of such violations.

§ 18.618–9 Withholding for labor violations.

Any amounts necessary to pay laborer and mechanic wages due under the contract shall be withheld until evidence of proper payment is given, or such amounts shall be transferred to the Comptroller General. See § 18.704–13.

Subpart G—Labor Standards for Contracts Involving Construction

Sec.

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

§ 18.700 Scope of subpart.

This subpart deals with labor standards for construction contracts and for other contracts described in § 12.106–1 of this chapter, as prescribed by the statutes, regulations, and determinations set forth below.

§ 18.701 Applicability.

(a) The requirements of this subpart apply to contracts which are solely or predominantly for construction as defined in § 18.101–1, and also to certain nonconstruction contracts involving some construction work (see § 12.106 of this chapter).

(1) These requirements are applicable only if the construction work is, or reasonably can be foreseen to be, performed at a particular site, so that wage rates can be obtained for the locality.

(2) These requirements do not apply to contracts solely for dismantling and demolition or exploratory drilling, unless the contract is performed in support of another contract subject to these requirements.

(3) These requirements do not apply to contracts requiring construction work which is so closely related to research, experiment, and development that it cannot be performed separately, or which is itself the subject of research, experiment, or development.

(4) These requirements are applicable to manufacture or fabrication of construction materials and components on the site by a contractor or subcontractor under a contract otherwise subject to these requirements, but are not applicable to other manufacturing or furnishing of equipment, components or materials.

(5) These requirements are not applicable to employees of railroads operating under collective bargaining agreements which are subject to the provisions of the Railway Labor Act.

(b) Under contracts for construction as described in paragraph (a) of this section, the requirements of this subpart apply only to work performed by mechanics and laborers at the site of the work.

(1) "Mechanics and laborers" means those workers and working foremen who work predominantly with their hands or with tools and equipment, whether employed by a prime contractor or by a subcontractor of any tier. This does not include office workers, superintendents, technical engineers, or scientific workers.

(2) The site of the work may include the sites of job headquarters, storage yards, prefabrication or assembly yards, quarries or borrow pits, batch plants, and similar facilities if they are set up for and serve exclusively the particular construction operation and are reasonably near the site. Transportation of materials, equipment, or personnel to and from the site is included, but such transportation by common carriers, established trucking firms, material suppliers, or manufacturers is excluded.

§ 18.702 Statutes, regulations, and determination.

§ 18.702–1 Statutes.

(a) *Davis-Bacon Act.* The Davis-Bacon Act (Act of Mar. 3, 1931, as amended, 40 U.S.C. 276a) provides that certain contracts over $2,000 entered into by any Department for the construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States shall contain a provision (see § 18.703–1(a)) to the effect that no laborer or mechanic employed directly upon the site of the work contemplated by the contract shall receive less than the prevailing wage, including basic hourly rates and fringe benefits payments, as determined by the Secretary of Labor.

(b) *Copeland Act.* The Copeland ("Anti-Kickback") Act (18 U.S.C. 874

and 40 U.S.C. 276c) makes it unlawful to induce, by force or otherwise, any person employed within the United States in the construction or repair of public buildings or public works (including those financed in whole or in part by loans or grants from the United States) to give up any part of the compensation to which he is entitled under his contract of employment. In accordance with regulations of the Secretary of Labor issued pursuant to the Copeland Act, certain contracts entered into by any Department must contain a provision (see § 18.703–1(e)) to the effect that the contractor and any subcontractor shall comply with the regulations of the Secretary of Labor under the Act.

(c) *Contract Work Hours Standards Act.* In accordance with the requirement of the Contract Work Hours Standards Act (40 U.S.C. 327–330), certain contracts entered into by any Department must contain a clause (see § 18.703–1(b)) to the effect that no laborer or mechanic doing any part of the work contemplated by the contract shall be required or permitted to work more than 8 hours in any 1 calendar day or 40 hours in any work week unless such laborer or mechanic is compensated for all hours worked in excess of 8 hours in any 1 calendar day or 40 hours in any work week whichever is the greater number of overtime hours at not less than one and one-half times his basic rate of pay.

§ 18.702–2 Regulations and determination.

(a) *Department of Labor regulations.* Pursuant to the foregoing statutes and Reorganization Plan No. 14 of 1950 (5 U.S.C. 133z–15), the Secretary of Labor has issued regulations (29 CFR Parts 3 and 5) providing for the administration and enforcement of these statutes in construction contracts. Each Department shall comply with the regulations, rulings, interpretations, and decisions of the Department of Labor issued pursuant to the above provisions. If a question arises concerning such compliance, the Department concerned shall attempt to resolve it with the appropriate office of the Department of Labor. In any case where resolution of the question by higher authority is deemed appropriate, such question shall be submitted, for the Army, to the Labor Advisor, Office of the Assistant Secretary of the Army (Installations and Logistics); for the Navy, to the Chief of Naval Material, Attn.: Labor Relations Advisor; for the Air Force, to the Director of Procurement Policy, HQ USAF, Attn.: AFSPP-DA; and, for the Defense Supply Agency, to Headquarters, Defense Supply Agency, Attn.: DSAH–FP. Any such questions which are not resolved by the foregoing procedure shall be referred to the Office of the Assistant Secretary of Defense (Manpower) for further action.

(b) *Determination affecting standard compensation at Cape Kennedy, Merritt Island Launch Area, and Patrick Air Force Base.* The Project Stabilization Agreement for the Cape Kennedy Complex (which consists of Cape Kennedy, Merritt Island Launch Area, and Patrick Air Force Base) is an agreement between contractors and labor unions designed to further the orderly and uninterrupted prosecution of construction work at the Cape Kennedy Complex. The agreement applies to work subject to the Davis-Bacon Act that is performed at the Complex, or, in some circumstances, elsewhere in Brevard County, Fla. The Deputy Secretary of Defense has determined, pursuant to Public Law 85–804, 50 U.S.C. 1431–1435, that in order to facilitate the national defense, it is necessary to include a clause in all contracts and modifications thereto, for the performance of construction work at the Cape Kennedy Complex, requiring all contractors and subcontractors performing such work to make payment in accordance with the Table of Employee Compensation, which is based on the Project Stabilization Agreement.

§ 18.703 Contract clauses.

§ 18.703–1 Clauses for general use.

Every construction contract in excess of $2,000 for work within the United States shall include the following clauses.

(a) *Davis-Bacon Act (40 U.S.C. 276a to a–7).*

DAVIS-BACON ACT (40 U.S.C. 276a to a–7) (APRIL 1965)

(a) All mechanics and laborers employed or working directly upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations (29 CFR, Part 3)), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics. A copy of such wage determination decision shall be kept posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers.

(b) The Contractor may discharge his obligation under this clause to workers in any classification for which the wage determination decision contains:

(1) Only a basic hourly rate of pay, by making payment at not less than such basic hourly rate, except as otherwise provided in the Copeland Regulations (29 CFR, Part 3); or

(2) Both a basic hourly rate of pay and fringe benefits payments, by making payment in cash, by irrevocably making contributions pursuant to a fund, plan, or program for, and/or by assuming an enforceable commitment to bear the cost of, bona fide fringe benefits contemplated by the Davis-Bacon Act, or by any combination thereof. Contributions made, or cost assumed, on other than a weekly basis shall be considered as having been constructively made or assumed during a weekly period to the extent that they apply to such period. Where a fringe benefit is expressed in a wage determination in any manner other than as an hourly rate and the Contractor pays a cash equivalent or provides an alternative fringe benefit, he shall furnish information with his payrolls showing how he determined that the cost incurred to make the cash payment or to provide the alternative fringe benefit is equal to the cost of the wage determination fringe benefit. In any case where the Contractor provides a fringe benefit different from any contained in the wage determination, he shall similarly show how he arrived at the hourly rate shown therefor. In the event of disagreement between or among the interested parties as to an equivalent of any fringe benefit, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(c) The assumption of an enforceable commitment to bear the cost of fringe benefits, or the provision of any fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or in the wage determination decision forming a part of the contract, may be considered as payment of wages only with the approval of the Secretary of Labor pursuant to a written request by the Contractor. The Secretary of Labor may require the Contractor to set aside assets, in a separate account, to meet his obligations under any unfunded plan or program.

(d) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination decision and which is to be employed under the contract shall be classified or reclassified conformably to the wage determination decision, and shall report the action taken to the Secretary of Labor. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics to be used, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(e) In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by this contract has been or is being paid at a rate of wages less than the rate of wages required by paragraph (a) of this clause, the Contracting Officer may (i) by written notice to the Government Prime Contractor terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (ii) prosecute the work to completion by contract or otherwise, whereupon such Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

(f) Paragraphs (a) through (e) of the clause shall apply to this contract to the extent that it is (i) a prime contract with the Government subject to the Davis-Bacon Act or (ii) a subcontract also subject to the Davis-Bacon Act under such prime contract.

(b) *Contract Work Hours Standards Act—Overtime Compensation (40 U.S.C. 327–330).*

CONTRACT WORK HOURS STANDARDS ACT—OVERTIME COMPENSATION (40 U.S.C. 327–330) (April 1965)

(a) The Contractor shall not require or permit any laborer or mechanic in any workweek in which he is employed on any work under this contract to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek, whichever is the greater number of overtime hours. The "basic rate of pay," as used in this clause, shall be the amount paid per hour, exclusive of the Contractor's contribution or cost for fringe benefits and any cash payment made in lieu of providing fringe benefits, or the basic hourly rate contained in the wage determination, whichever is greater.

(b) In the event of any violation of the provisions of paragraph (a), the Contractor shall be liable to any affected employee for any amounts due, and to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight (8) hours or in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by paragraph (a).

(c) *Apprentices.*

APPRENTICES (APRIL 1965)

(a) Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the aforesaid Bureau of Apprenticeship and Training. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed.

(b) The Contractor shall furnish written evidence of the registration of his program and apprentices as well as of the ratios allowed and the wage rates required to be paid thereunder for the area of construction, prior to using any apprentices in the contract work.

(d) *Payrolls and basic records.*

PAYROLLS AND BASIC RECORDS (APRIL 1965)

(a) The Contractor shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve them for a period of three (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 (including rates of contributions for, or costs assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Contractor has obtained approval from the Secretary of Labor as provided in paragraph (c) of the clause entitled "Davis-Bacon Act," he shall maintain records which show the commitment, its approval, written communication of the plan or program to the laborers or mechanics affected, and the costs anticipated or incurred under the plan or program.

(b) The Contractor shall submit weekly a copy of all payrolls to the Contracting Officer. The Government Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors The copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. Submission of the "Weekly Statement of Compliance" required under this contract and the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3) shall satisfy the requirement for submission of the above statement. The Contractor shall submit also a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by paragraph (c) of the clause entitled "Davis-Bacon Act."

(c) The Contractor shall make the records required under this clause 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.

(e) *Compliance with Copeland Regulations.*

COMPLIANCE WITH COPELAND REGULATIONS (JUNE 1964)

The Contractor shall comply with the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3) which are incorporated herein by reference.

(f) *Withholding of funds.*

WITHHOLDING OF FUNDS (APRIL 1965)

(a) The Contracting Officer may withhold or cause to be withheld from the Government Prime Contractor so much of the accrued payments or advances as may be considered necessary (i) to pay laborers and mechanics employed by the Contractor or any subcontractor on the work the full amount of wages required by the contract, and (ii) to satisfy any liability of any Contractor for liquidated damages under the clause hereof entitled "Contract Work Hours Standards Act—Overtime Compensation."

(b) If any Contractor fails to pay any laborer or mechanic employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Government Prime Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

(g) *Subcontracts.*

SUBCONTRACTS (APRIL 1965)

The Contractor agrees to insert the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours Standards Act—Overtime Compensation," "Apprentices," "Payrolls and Basic Records," "Compliance With Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment" in all subcontracts. The term "Contractor" as used in such clauses in any subcontract shall be deemed to refer to the subcontractor except in the phrase "Government Prime Contractor."

(h) *Contract termination—debarment.*

CONTRACT TERMINATION—DEBARMENT (APRIL 1965)

A breach of the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours Standards Act—Overtime Compensation," "Apprentices," "Payrolls and Basic Records," "Compliance With Copeland Regulations," "Withholding of Funds," and "Subcontracts" may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

§ 18.703–2 Contracts for work at Cape Kennedy, Patrick Air Force Base, and Merritt Island Launch Area.

The following clause shall be included in every contract involving construction subject to the Davis-Bacon Act for work to be performed at the Cape Kennedy Complex, or elsewhere in Brevard County, Florida, when such work, because of its relationship to work at the Cape Kennedy Complex, is "directly upon the site of the work" at the Cape Kennedy Complex within the meaning of the Davis-Bacon Act.

EMPLOYEE COMPENSATION—CAPE KENNEDY, PATRICK AIR FORCE BASE, AND MERRITT ISLAND LAUNCH AREA (OCTOBER 1966)

(a) The Contractor shall pay to laborers and mechanics wages and other compensation, including but not limited to fringe benefits, overtime premium, shift premiums, holiday pay, and travel pay, at the rates and in the amounts set forth in the attached Table of Employee Compensation and any amendments thereto. The Table, based upon the Project Stabilization Agreement for Cape Kennedy, Patrick Air Force Base, and Merritt Island Launch Area, including Schedule A thereof, may be revised to reflect amendments to that agreement which the Secretary or his authorized representative determines to be reasonable. The obligation of the Contractor to pay fringe benefits shall be discharged by making payments to a fund or funds established for the purpose of providing one or more fringe benefits; or by paying their monetary equivalent directly to the laborers and mechanics to whom such benefits are applicable; or by a combination of the foregoing.

(b) Amounts for wages, and other compensation of the kinds described in paragraph (a) above, which are in excess of the rates and amounts required by this contract will not be recognized in any contract negotiations or pricing actions under a fixed-price type contract, and will not be recognized as an allowable cost under any cost-reimbursement type contract.

(c) This clause applies to all work under this contract (including subcontracts) which:

(i) Is covered by the Davis-Bacon Act; and

(ii) Is performed (A) at Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area, or (B) in Brevard County, Florida, and which, because of its relationship to work described in (A) above, is "directly upon the site of the work" at Patrick Air Force Base, Cape Kennedy, or Merritt Island Launch Area within the meaning of the Davis-Bacon Act.

(d) (1) In the event of failure to pay any laborer or mechanic the compensation required by this clause, the Contracting Officer may suspend any payments to the Contractor, in whole or in part, until such violation has ceased. Furthermore, this contract may be terminated for default for breach of any requirement under this clause.

(2) 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.

(e) The Contractor agrees to insert the substance of this clause, including this paragraph (e), in any subcontract for the performance of any work described in paragraph (c) hereof.

(f) The requirements of this clause are in addition to, and shall not relieve the Contractor of, any obligation imposed by any other clauses of this contract, including those entitled "Davis-Bacon Act," "Contract Work Hours Standards Act—Overtime Compensation," "Apprentices," "Payrolls and Basic Records," "Compliance With Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment."

(g) The Contractor agrees to maintain payroll and personnel records during the course of work subject to this clause, and to preserve such records for a period of three (3) years thereafter, for all laborers and mechanics performing such work. Such records will contain the name and address of each such employee, his correct classifi-

cation, rate of pay, daily and weekly number of hours worked, and the dates and hours of the day within which such work was performed, deductions made and amounts for wages and other compensation of the kinds described in paragraph (a) hereof. The Contractor agrees to make these records available for inspection by the Contracting Officer and will permit him to interview employees during working hours on the job.

A current Table of Employee Compensation shall be included in contracts containing the above clause. Because use of this clause is based on a determination pursuant to Public Law 85–804, 50 U.S.C. 1431–1435, the contracting officer shall cite that statute in an appropriate place in the contract and shall assure compliance with the requirements of § 17.206 of this chapter with respect to all contracts which include this clause.

§ 18.703–3 Contracts with a State or political subdivision.

In the case of construction contracts with a State or political subdivision thereof, the contract clauses required by § 18.703–1 shall be inserted therein but shall be prefaced by the following provision:

The Contractor agrees to comply with the requirements of the Contract Work Hours Standards Act and to insert the following clauses in all subcontracts hereunder with private persons or firms.

§ 18.703–4 Overseas contracts.

Every construction contract in excess of $2,000 for work in Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, or the Canal Zone shall include (a) the clause entitled Contract Work Hours Standard Act—Overtime Compensation, set forth in § 18.703–1(b), (b) the Subcontracts clause set forth in § 18.703–1(g), except that the first sentence thereof shall be modified to refer only to the clauses entitled Contract Work Hours Standards Act—Overtime Compensation, Subcontracts, and Contract Termination—Debarment, and (c) the clause entitled Contract Termination—Debarment set forth in § 18.703–1(h), except that the clause shall be modified to refer only to the clauses entitled Contract Work Hours Standards Act—Overtime Compensation and Subcontracts.

§ 18.704 Administration and enforcement.

§ 18.704–1 Policy.

(a) *General.* To comply with the Department of Defense policy of assuring full and impartial enforcement of the labor standards laws in the administration of construction contracts, each Department shall maintain a continuing effective enforcement program which shall include:

(1) Training appropriate contract administration, labor relations, inspection, and other labor standards enforcement personnel in their responsibilities;

(2) Assuring that contractors and subcontractors are informed, prior to commencement of work, of their obligations under the labor standards provisions of their contracts;

(3) Adequate payroll and on-the-site inspections and employee interviews to determine compliance, and prompt initiation of corrective action when required;

(4) Prompt investigation and disposition of complaints;

(5) Prompt submission of all reports required by this subpart; and

(6) Periodic review of field enforcement activities to assure compliance with applicable regulations and instructions.

(b) *Responsibility.* The contracting officer shall ascertain that the contractor is fully informed of the labor standards provisions of the contract and of his and any subcontractor's responsibilities thereunder. In order to assure that the contractors and subcontractors fully understand the labor standards provisions in their contracts and the attendant administrative requirements, the following procedures shall be followed.

(1) *Preconstruction letters.* Promptly after award of the contract, the contracting officer shall furnish to the prime contractor a preconstruction letter calling attention to the labor standards requirements contained in the contract which relate to (i) employment of foremen, laborers, mechanics and others, (ii) wages and fringe benefits payments, payrolls and statements, (iii) differentiation between subcontractors and suppliers, (iv) additional classifications, (v) benefits to be realized by contractors and subcontractors in keeping complete work records, (vi) penalties and sanctions for violations of labor standards provisions, and (vii) the provisions of § 18.701(a) which may be of consequence in contract performance. The letter shall state that the labor standards requirements are based on the following statutes and regulations: Davis-Bacon Act; Contract Work Hours Standards Act; Copeland ("Anti-Kickback") Act; and Parts 3 and 5 of the Secretary of Labor's Regulations (29 CFR Parts 3 and 5). Executive Order 11246 (Equal Employment Opportunity) may also be covered in this letter. Prime contractors shall also be advised to send a copy of the preconstruction letter to each subcontractor.

(2) *Preconstruction conference.* The contracting officer shall confer with the contractor and such subcontractors as the prime contractor designates to emphasize their labor standards obligations under the contract, when the prime contractor has not performed previous Government construction contracts or has experienced difficulty in complying with labor standards requirements on previous contracts, or when for other reasons the contracting officer considers such action warranted. Such conferences should be held prior to the beginning of construction. During the conference, the contracting officer should determine whether the contractor and his subcontractors intend to pay any required fringe benefits in the manner specified in the wage determination or to elect a different method of payment. If the latter is indicated, the contractor shall be advised of the requirements of § 18.704–3(a).

§ 18.704–2 Wage determinations.

(a) *In general.* (1) Wage determinations reflecting the prevailing wages, including fringe benefits, for laborers and mechanics in a particular area are issued by the Secretary of Labor. Determinations are effective for 120 calendar days from the date of initial issue and are void for incorporation into contracts awarded after that period.

(2) When it appears that a wage determination may expire before award, a new determination should be requested in time to assure receipt prior to the bid opening. Upon receipt, the new determination shall be treated as a superseding decision in accordance with paragraph (g) of this section, except that the expiration thereof shall be controlled by the date thereon and not by the date of the determination which it replaces.

(3) When, due to unavoidable circumstances, a wage determination expires after bid opening but before award, the Secretary or his designee, at a level no lower than the head of a procuring activity, may, upon finding that an extension is in the public interest to prevent injustice, undue hardship, or serious impairment of the conduct of Government business, submit a written request to the Solicitor of Labor for an extension of the expiration date.

(b) *Types of wage determinations.* (1) A general wage determination is issued for use by more than one Government agency and provides wage rates for all contracts for the types of construction designated in the determination which may be awarded within a given geographical area during the 120-day life of the determination. Such a determination is the only type which is issued by the Department of Labor on a continuing basis.

(2) An area or installation (54A) determination provides wage rates for all contracts for work described in the determination which may be awarded at an installation or within a given geographical area (usually a county) during the 120-day life of the determination. This type of determination is used only when no general wage determination has been issued, and may be obtained for installations or areas where continuing construction activity is anticipated.

(3) An individual determination is provided by the Department of Labor for use in a contract to be performed at an installation, or in an area, not covered by either of the above types of determination.

(c) *Responsibility for obtaining and distributing copies of general wage determinations.* Where it is known that a general wage determination has been issued for the area in which the contract will be performed, it shall be requested in writing from the Chief of Engineers Attn: ENGGC–L, for the Army; from Naval Facilities Engineering Command (Code 021A), for the Navy; from Headquarters, USAF (AFSPPDA), for the Air Force; and from Headquarters, Defense Supply Agency, Attn: DSAH–PL, for the Defense Supply Agency.

(d) *Procedure for requesting area or installation (54A) or individual wage determinations; responsibility for obtaining and distributing copies.* (1) Requests for area or installation (54A) or individual wage determinations shall be prepared on Department of Labor Form DB–11, "Request for Determination," which may be obtained from the Department of Labor. Form DB–11 shall be filled out as follows:

(i) Under "Department, Agency, or Bureau" enter the name of the requesting Department followed in parentheses by the name of the installation submitting the request (and, for the Army, the name of the Engineer District).

(ii) Under "Description of Work" include a statement of whether an area or installation (54–A) or individual determination is desired—and if a 54–A is desired, only a general description need be given. Line 4 of the DB–11 provides for designation of the three most common types of construction (Building, Heavy, Highway Construction). Where a different type of work (such as family housing construction) is to be performed, it shall be indicated on line 4 of the DB–11 in lieu of checking any of the blocks contained on that line: When the request indicates a type of construction other than building, heavy or highway, it is of particular importance, in order to avoid delay, that the request be accompanied by (*a*) any pertinent wage payment information which may be available, and (*b*) a copy of the pertinent portions of the specifications or a detailed description of the work to be performed. Where the Secretary of Labor has issued a general wage determination, a request should be submitted only when the type of work to be performed is not included in the description of work set forth in the decision. If additional space is needed, a separate attachment may be submitted with the form.

(iii) Under "Location (City or Other Description)," state the area or installation to be covered or exact location of the proposed project, as appropriate. If the project is not in a city, town, or village, state the distance and direction from the nearest community or other point of reference. If river or other work covering an extended project site is involved, explain the full extent of the location with references to data identifying the geographic limits of the project, such as side of river and direction from several reference points.

(iv) For individual determinations, check only those craft classifications which are actually anticipated to be necessary for the work. Craft classifications which are anticipated but are not on the form may be entered in blank spaces or on a separate list attached to the form. Determinations should be requested only for craft classifications which are recognized in the area or in the construction industry. Do not check any craft classfications when a 54–A determination is requested, since all classifications are automatically included therein.

(v) When it is known that wage patterns for the area involved are not clearly established, the following information concerning public contracts being performed or recently completed in the area should be furnished, if reasonably available, as an attachment to Form DB–11 to aid the Solicitor of Labor:

(*a*) Names and addresses of contractors;

(*b*) Locations, approximate costs, dates of construction, and types of projects;

(*c*) Number of workers employed in each classification on each project; and

(*d*) Wage rates, including fringe benefits, paid such workers.

Wage rates determined for public construction by state or local officers pursuant to state or local prevailing wage legislation and any other pertinent information should also be sent to the Solicitor if reasonably available.

(2) Requests for determinations shall be initiated and forwarded as provided in subdivision (i) through (iv) of this subparagraph. Requests shall be submitted in time to reach the Solicitor of Labor at least 30 days in advance of the date selected for issuance of the solicitation. Requests shall not be made to the Solicitor of Labor by wire or telephone. When, due to an emergency, a wage determination is required immediately, the requiring office may request assistance from the appropriate Departmental office listed in subdivisions (i) through (iv) of this subparagraph.

(i) *For the Army.* Form DB–11 shall be initiated by the office responsible for the preparation of specifications or the awarding of contracts, and shall be forwarded in quadruplicate to the appropriate District Engineer, except that in the New England Division the request shall be forwarded to the Division Engineer, New England Division, Corps of Engineers. The original of Form DB–11 shall be sent by the District Engineer to the Solicitor of Labor, and a copy to the Chief of Engineers, ATTN: ENGGC–L. When received, the wage determination shall be returned to the requesting office by the Chief of Engineers through the above channels.

(ii) *For the Navy.* Within the Naval Facilities Engineering Command, requests shall be initiated by the office responsible for the preparation of specifications. The original of Form DB–11 shall be sent to the Solicitor of Labor, and a copy to the Naval Facilities Engineering Command (Code 021A). When received, the wage determination shall be returned to the requesting office by the Command Headquarters. Requests relating to contracts of other commands or offices should be processed through the Naval Facilities Engineering Command Headquarters.

(iii) *For the Air Force.* Request shall be initiated by a civil engineering officer in cases where he is responsible for preparing the construction specifications, and by the contracting officer administering the contract in cases of subcontracts and facilities contracts. The original of Form DB–11 shall be submitted to the Solicitor of Labor, and a copy to Headquarters, USAF (AFSPPDA). One copy shall be retained in the requesting office's files. When received, the wage determination shall be returned to the requesting office by Headquarters, USAF (AFSPPDA).

(iv) *For the Defense Supply Agency.* Requests shall be initiated by the office responsible for the preparation of specifications or award of contracts. The original of Form DB–11 shall be sent to the Solicitor of Labor with a copy to Headquarters, Defense Supply Agency, Executive Director for Procurement and Production, Attn: DSAH–PL. When received, the wage determination shall be returned to the requesting office by the Executive Director of Procurement and Production, DSAH–PL.

(e) *Review of wage determination decisions.* Immediately upon its receipt, the requesting officer shall examine the wage determination and inform the appropriate office indicated in paragraph (d)(2) of this section of any changes considered to be necessary or appropriate to correct errors. Private parties requesting changes should be advised to submit their requests to the Solicitor of Labor.

(f) *Rates to be included in solicitations.* In the preparation of solicitations for work in an area covered by either a general wage determination or an area or installation determination, wage rates shall be included for classification of laborers and mechanics who it appears will be involved in performance of the contract work. Wage rates for other classifications shall be omitted, and in that case the following explanatory note shall be included in the solicitation:

EXPLANATORY NOTE: In addition to the wage rates set forth in this invitation for bid (request for proposal), the complete decision of the Secretary of Labor contains wage rates for other classes of laborers and mechanics. Because it does not appear that the work called for by this invitation for bid (request for proposal) will require the use of such other classes, the wage rates applicable to them have not been reprinted herein. However, in the event any such classes of laborers or mechanics actually are employed to perform work under the contract resulting from this invitation for bid (request for proposal), payment will be required as specified in the clause entitled "Davis-Bacon Act" at wage rates contained in the complete decision of the Secretary of Labor. Bidders (Proposers) desiring the complete decision may request it from the Contracting Officer (October 1966).

(g) *Modifications (including superseding decisions).* (1) During the life of any wage determination, it may be modified by the Secretary of Labor through issuance of a modification, which may be (i) a "letter of inadvertence," which is used to correct a clerical error in a wage determination, (ii) a "notice of modification," which specifies a change in a wage determination, or (iii) a "superseding decision," which is a reissuance of a wage determination with changes incorporated. All modifications (including superseding decisions) expire on the same day as the original determination.

Since the need for inclusion of a modification in a solicitation is determined by the time of receipt in the Department concerned, all modifications shall be time-date stamped immediately upon receipt by the Department concerned.

(2) A modification which affects wage rates included in a solicitation, and which was received by the Department concerned on or before the tenth calendar day preceding bid opening in formally advertised procurements or award in negotiated procurements shall be processed upon receipt by the contracting officer as follows:

(i) In formally advertised procurements—

(*a*) If the modification reaches the contracting officer before bid opening, he shall issue an amendment to the invitation for bids and, if necessary, extend the date of bid opening;

(*b*) If the modification reaches the contracting officer after bid opening but before award—

(*1*) Then if the modification only increases wage rates and the low responsible responsive bidder agrees in writing to the increase without a change in his bid price, the contracting officer shall incorporate the modification into the contract;

(*2*) But if the modification decreases any included wage rates, or if there is any increase which the low responsible responsive bidder will not agree to in writing without a change in his bid price, the contracting officer shall readvertise the procurement;

(*c*) If the modification reaches the contracting officer after award—

(*1*) Then if the wage determination has not yet expired or been rescinded, he shall issue a change order replacing or adding the appropriate material, effective retroactively to the date of award;

(*2*) If the wage determination has expired or been rescinded, he shall issue a change order after first obtaining an advisory opinion in accordance with paragraph (h) of this section;

(ii) In negotiated procurements—

(*a*) If the modification reaches the contracting officer before award, he shall notify the prospective contractors and allow them sufficient time to adjust their offers accordingly;

(*b*) If the modification reaches the contracting officer after award, he shall follow the procedures in subdivision (i) (*c*) of this subparagraph.

(3) A modification which affects wage rates included in a solicitation, and which was received by the Department concerned later than the tenth calendar day preceding bid opening in formally advertised procurements or award in negotiated procurements, must be included in the solicitation only where such action will not delay bid opening or otherwise create excessive administrative burdens and may otherwise be disregarded. A modification which accordingly is not included in the solicitation shall not be included in advertised contracts after bid opening or in negotiated contracts after award.

(h) *Contracts awarded without required wage rates.* If a contract is awarded without the required wage determination or modification thereto, and such determination or modification either was not issued by the Solicitor of Labor or has expired or been rescinded, then the contracting officer shall submit through channels a request to the Solicitor of Labor for advisory opinion setting forth the wage rates as of the date of award. Upon receipt of the opinion, the contracting officer shall issue a change order replacing or adding the appropriate material, effective retroactively to the date of award.

(i) *Formal advertising without a wage determination.* In the event emergency conditions arise requiring work to be advertised before an appropriate wage determination can be obtained, a notice shall be included in the invitation for bids that the schedule of minimum wage rates to be paid under the contract will be issued as an amendment to the specifications. Under no circumstances may bids be opened until a reasonable time after the wage determination has been furnished to all bidders.

(j) *Posting.* The contractor must keep a copy of the wage determination and of any approved additional classifications posted at the site of the work in a prominent place where they can be seen easily by the workers. The Department of Labor Wage Information Poster (Form SOL–155) shall be furnished the contractor for posting with wage rates. The name and address of the officer responsible for the administration of the contract shall be inserted in the blank box in the middle of the poster to inform workers where complaints or questions concerning labor standards may be made.

(k) *Wage determinations appeals.* The Secretary of Labor has established the Wage Appeals Board, one of whose powers is to decide appeals concerning questions of law and fact arising from decisions of the Solicitor of Labor with regard to wage determinations issued under the Davis-Bacon Act and related minimum wage statutes. The Secretary of the Department concerned, after coordination with the Office of the Assistant Secretary of Defense (Manpower), may file a petition for review of, or for intervention in, any matter which it appears may appropriately be brought before the Board. Such petitions shall be prepared and submitted in accordance with procedures established for the Wage Appeals Board in 29 CFR Part 7.

§ 18.704–3 Fringe benefits.

(a) In computing wages paid to a laborer or mechanic the contractor may include only the following items:

(1) Amounts paid in cash to the laborer or mechanic, or deducted from such payment in accord with 29 CFR Part 3;

(2) Contributions, except those required by Federal, State, or local law, which the contractor makes irrevocably to a trustee or a third party pursuant to any fund, plan or program to provide for medical or hospital care, pensions, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defraying costs of apprenticeship, or any other fringe benefit specifically enumerated in the wage determination decision involved; and

(3) Other contributions or anticipated costs to the extent such contributions or anticipated costs have been expressly approved by the Secretary of Labor.

(b) Where the wage determination decision specifies fringe benefits payments, the contractor may satisfy his obligation under the clause entitled Davis-Bacon Act by providing wages consisting of any combination of contributions or costs as specified in paragraph (a) of this section: *Provided*, That the total cost of such combination is not less than the total of the basic hourly rate and fringe benefits payments prescribed in the wage determination decision for the classification of laborer or mechanic concerned. Wages provided by the contractor, or fringe benefits payments required by the wage determination decision, may include items which are not stated as exact cash amounts. In such cases, the interested parties shall determine the cash equivalent of the cost of such items when necessary to determine whether the wages provided by the contractor satisfy the requirements of the wage determination. In the event the interested parties are unable to agree on the cash equivalent, the contracting officer, in accordance with paragraph (b) of the clause entitled Davis-Bacon Act, shall submit the question for determination to the Solicitor of Labor, through the appropriate channel specified in § 18.704–2(d)(2). The submission shall include a comparison of the payments, contributions or costs contained in the wage determination decision with those made or proposed by the contractor as equivalent thereto, together with the comments and recommendations of the contracting officer.

(c) For purposes of computing overtime payments the regular or basic rate of pay specified in the wage determination, or that actually paid by the contractor if higher, shall be used. No reduction may be made for amounts deducted from such rate for employee contributions to fringe benefits, but the contractor's contributions, costs, or payment of cash equivalents for fringe benefits shall be excluded from the computation. In no event may such exclusion result in a computation of overtime on a rate lower than the rate of pay specified in the wage determination.

§ 18.704–4 Additional classification.

(a) *Requirements.* Whenever any laborer or mechanic is to be employed in a classification not listed in the wage determination decision applicable to the contract, the contractor concerned must submit a statement of the proposed additional classification and minimum wage rate, including fringe benefits payments, if any. DD Form 1565, "Request for Authorization of Additional Classification and Rate," shall be used for such proposals. Upon approval the additional classification and rate shall be

posted with the wage determination decision.

(b) *Approval.* Upon receipt of the request for authorization, the contracting officer shall review it to determine whether it meets the following criteria:

(1) The classification cannot be fitted into one contained in the applicable wage determination;

(2) The classifiction is generally recognized in the area or constrpction industry; and

(3) The proposed wage rate, including any fringe benefits, conforms to the wage determination decision contained in the contract.

If the above criteria are met and no interested party objects to the proposed classification, the contracting officer or his representative shall approve the proposal. If the criteria are not met or the interested parties cannot agree on the proposal, the contracting officer or his representative shall submit the proposal together with available pertinent information and his recommendation to the Solicitor of Labor for final determination. Upon approval, the contracting officer shall notify the contractor and instruct him to post the approved rate and classification in accordance with § 18.704–2(j).

(c) *Submission.* The completed DD Form 1565 (with information and recommendations where appropriate) shall be forwarded to the Solicitor of Labor, United States Department of Labor, Washington, D.C. 20210, for information or final determination as required. Copies of the submission shall be forwarded in accordance with § 18.704–2 (d)(2).

§ 18.704–5 Apprentices.

(a) A contractor may employ apprentices on Government construction projects only when he has submitted to the contracting officer evidence of registration of such employees in a program which has been accepted either by a state apprenticeship and training agency approved and recognized by the U.S. Bureau of Apprenticeship and Training, or by that Bureau itself. The contractor shall also be required to submit written evidence of apprentice-journeymen ratios and wage rates including fringe benefits payments established for his program in the project area. Upon receipt of such submission, the contracting officer shall accept such ratios and rates for the purpose of the contractor's compliance with the Davis-Bacon Act clause.

(b) Whenever a contractor has classified employees as apprentices without complying with the foregoing requirements, the classification shall be rejected, and the contractor shall be required to pay such employees at the rates applicable to the classification of the work they actually performed.

§ 18.704–6 Subcontracts.

Upon award of each subcontract, a DD Form 1566, "Statement and Acknowledgment," will be executed by the contractor and subcontractor in compliance with the Subcontractors clause in § 7.602–37.

§ 18.704–7 Payrolls and statements.

(a) *Submission.* Within 7 calendar days after the regular payment date of the payroll week covered, the contractor is required to submit, or cause to be submitted, for himself and his subcontractors (1) copies of weekly payrolls in compliance with § 18.703–1(d), and (2) weekly payroll statements in compliance with § 18.703–1(e). (See § 16.803–1(c) of this chapter for payroll statement.)

(b) *Withholding for nonsubmission.* If the contractor fails to submit his or his subcontractors' payrolls promptly, the contracting officer shall withhold approval of such amount of the progress payment estimate as he considers necessary to protect the interests of the Government, or of the employees of the contractor or any subcontractor.

(c) *Examination.* The contracting officer shall make such examination of the payrolls and statements as may be necessary to assure compliance with contract, statutory, and regulatory requirements. Particular attention should be given to the correctness of classifications and rates, fringe benefits payments, hours worked, deductions, and ratios of laborers, helpers or apprentices to mechanics. With respect to fringe benefits payments, contributions made or costs incurred on other than a weekly basis shall be considered as a part of required weekly payments to the extent they are creditable to the particular weekly period involved and are otherwise acceptable.

(d) *Preservation.* Payrolls and statements shall be preserved for a period of 3 years from completion of the contract, and shall be made available at the request of the Solicitor of Labor at any time during such period.

§ 18.704–8 Compliance checking.

(a) *Regular compliance checks.* The contracting officer administering the contract shall cause regular checks to be made to assure compliance with contract labor standards requirements. Contracts of 6 months or shorter duration shall be checked, if feasible, before final payment is made. Longer contracts shall be checked with such frequency as may be necessary. Continuous and careful checking is essential to the success of the labor standards enforcement program. Regular compliance checking includes the following activities:

(1) Employees interview conducted by the inspector or contracting officer or his representative to determine correctness of classifications and rate of pay, including fringe benefits payments. DD Form 1567, "Labor Standards Interview," shall be used for recording such interviews;

(2) On-site inspections to check type and classifications of work performed, number of workers, and fulfillment of posting requirements;

(3) Payroll reviews to assure that payrolls of prime contractors and subcontractors have been submitted on time and that such payrolls are complete and correct (see § 18.704–9(c)); and

(4) Comparison of the above information with available data, including daily inspector's report and daily logs of construction, to assure consistency.

(b) *Special compliance checks.* A special compliance check is conducted to determine whether a question regarding compliance with labor standards requirements is sufficient to warrant an investigation. Situations which may require a special compliance check include the following:

(1) Inconsistencies, errors or omissions detected during regular compliance checks;

(2) Receipt of a complaint alleging violations; when the complaint is not specific enough to enable a check or investigation to be conducted, the complainant shall be so advised and invited to submit additional information.

§ 18.704–9 Investigations.

(a) *General.* Investigations shall be made whenever a special compliance check indicates either that a complaint has merit or that possible violations occurred which are substantial in amount, willful, or not corrected. The contracting officer is responsible for the proper conduct of the investigation. The investigation shall include all aspects of the contractor's compliance with labor standards requirements, and shall not be limited to a specific complaint, allegation, or possible violation disclosed during compliance checking. The investigation should be made by personnel familiar with labor laws and their application to contracts. If the investigator has not previously conducted investigations, he should contact his nearest labor relations representative in accordance with organizational channels. In each investigation, the investigator shall comply with paragraphs (b) through (k) of this section.

(b) *Examination of contract documents.* The contract shall be checked for inclusion of labor standards provisions and the wage determination. The contract file shall be checked for completeness of the following items, if applicable:

(1) List of subcontractors;

(2) Payrolls and payroll statements for the contractor and subcontractors;

(3) Approvals of additional classifications;

(4) Data regarding apprentices as required by § 18.704–5;

(5) Daily inspector's report or other inspection reports;

(6) Employee interview statements; and

(7) Statement and Acknowledgment (DD Form 1566).

(c) *Examination of payrolls and payroll statements.* Contractors' and subcontractors' weekly payrolls and payroll statements should be checked for completeness and accuracy with respect to the following items:

(1) Identification of employees, payroll amount, the contract, contractor, subcontractor, and payroll period;

(2) Inclusion of only job classifications and wage rates specified in the contract specifications, or otherwise established for the contract or subcontract;

(3) Computation of daily and weekly hours;

(4) Computation of time-and-one-half for work in excess of 8 hours per day

or 40 hours per week in accordance with § 18.704–3(c);

(5) Gross weekly wages;

(6) Deductions;

(7) Computation of net weekly wages paid to each employee;

(8) Ratio of laborers or helpers to mechanics;

(9) Apprenticeship registration and ratios; and

(10) Computation of fringe benefits payments.

(d) *Notice to contractor.* The contractor shall be informed by the investigator that he is investigating compliance with pertinent contract labor standards provisions, and outline the general scope of the investigation, which includes examining pertinent records and interviewing employees. The names of the employees to be interviewed shall not be divulged to the contractor. At this time, the investigator shall verify the exact legal name of the firm, its address, and the names and titles of the principal officers. If verification of the investigator's authority is requested, he shall obtain an appropriate letter from the contracting officer and provide it to the contractor.

(e) *Interviewing complainant.* Complaint investigations shall include an interview with the complainant, except when this is impracticable. The interview shall cover all aspects of the complaint to assure that all pertinent information is obtained. Whenever an investigation does not include an interview of the complainant, its omission shall be explained in the investigator's report (see § 18.704–10).

(f) *Examination of contractor's time and work records.* Contractor and subcontractor records such as basic time cards, books, cancelled payroll checks, and fringe benefits payments records shall be compared with submitted payrolls. When discrepancies are found, pertinent excerpts or copies of the records shall be included in the investigation report as provided in paragraph (g) of this section, together with a statement of the discrepancy and any explanation obtained by the investigator. In cases where wages include contributions or anticipated costs for fringe benefits payments requiring approval of the Secretary of Labor as provided in § 18.704–3 (a)(3), the contractor's records shall be examined to assure that such approval has been obtained and that any requirements specified in the approval have been met.

(g) *Transcribing of contractor's records.* The contractor's records shall be transcribed whenever they contain information at variance with payrolls or other submitted documents. The transcriptions shall be made in sufficient detail to permit them to be used to check computations of restitutions and to determine amounts to be withheld from the contractor. Transcriptions shall follow the form used by the contractor. Comments or explanations concerning the transcriptions shall be placed on separate memoranda or in the narrative report.

(h) *Interviewing employees.* The investigator shall interview a sufficient number of employees or former employees, representative of all classifications, to develop information regarding methods and amount of payments, deductions, hours worked and type of work performed. DD Form 1567, "Labor Standards Interview," shall be used for employee interviews. Employees shall be interviewed during working hours at the job site if the interview can be conducted privately. Former employees or others may be interviewed elsewhere. Interviews shall be arranged to cause the least inconvenience to the employer and employee. When personal interviews are impractical, information may be obtained by mail. The investigator shall not disclose to the employee any information, finding, recommendation, or conclusion relating to the investigation, except to the extent necessary to obtain the required information. An employee's statement shall not be divulged to his employer, nor to anyone other than Government representatives working on the case, without the employee's written permission. The investigator shall request the employee to sign his statement, and to initial any changes thereto, and shall indicate his evaluation of the employee's credibility.

(i) *Interviewing the foreman.* An interview of the foreman serves to provide information concerning the contractor's compliance with the labor standards provisions with respect to employees under the foreman's supervision, and the correctness of the foreman's classification as a supervisory employee. All the conditions established for conduct of employee interviews, and the recording and use of data obtained, also apply to foreman interviews.

(j) *Checking posting requirements.* The investigator shall determine whether the wage determination decision, any modifications thereto, and any additional classifications are posted as required.

(k) *Interviewing the contractor.* Whenever information indicating possible violations has been developed, the investigator shall interview the contractor involved. At the outset of the interview, the contractor shall be advised that the purpose of the interview is only to obtain such data as the contractor may desire to present in connection with the investigation, and that the interview does not mean that a violation has been found or that a requirement for corrective action exists. During the interview the investigator shall not disclose the identity of any individual who filed a complaint, or whom he has interviewed.

§ 18.704–10 Investigator's report.

The investigator shall submit a written report, in duplicate, to the responsible contracting officer. The report shall include, if applicable:

(a) Basis for the investigation, including the name of the complainant;

(b) Names and addresses of prime contractors and subcontractors involved, and names and title of their principal officers;

(c) Contract number, date, and amount of prime contract, and date and number of wage determination therein;

(d) Description of the contract and subcontract work involved;

(e) Summary of the findings with respect to each of the items listed in § 18.704–9;

(f) Conclusions, indicated by a concise statement, concerning—

(1) The types of violations, including the amount of kickbacks under the Copeland Act, underpayments of basic hourly rates and fringe benefits under the Davis-Bacon Act, or underpayments and liquidated damages under the Contract Work Hours Standards Act;

(2) Whether violations are considered to be willful, or due to the negligence of the contractor or his agent;

(3) The amount of funds withheld from the contractor; and

(4) Other aspects of violations found; and

(g) The exhibition portion of the report, indexed and appropriately tabbed, including copies of the following when applicable—

(1) Complaint letter;

(2) Contract wage determination;

(3) Preconstruction letter and memorandum of preconstruction conference;

(4) Payrolls and statements indicating violations;

(5) Transcripts of pertinent records of the contractor, and approvals of fringe benefits payments;

(6) Employee interview statements;

(7) Foreman interview statements;

(8) Statements of others interviewed, including Government personnel;

(9) Detailed computations showing kickbacks, underpayments, and liquidated damages;

(10) Summary of all payments due to each employee, or a fund plan or program, and liquidated damages; and

(11) Receipts and cancelled checks.

§ 18.704–11 Notification to the contractor.

Upon receipt of the investigator's report, the contracting officer shall review it, and make appropriate findings. Employee statements the disclosure of which has not been authorized shall not be used to support any findings adverse to the contractor. In any case where the investigation as a whole indicates that adverse findings are warranted but such findings are not supported adequately by other evidence, the contracting officer may request any employee whose statement is deemed necessary to reconsider his refusal to authorize its disclosure. Except in cases involving the criminal provisions of the Copeland Act and the Contract Work Hours Standards Act, the contracting officer shall inform the contractor in writing of (a) his findings, (b) any proposed corrective actions, and (c) the contractor's right, if he disagrees with the findings or proposed corrective action, to request that the basis for the contracting officer's findings be made available and to submit, within a reasonable time, written or oral rebuttal information. The contracting officer shall request the con-

tractor to make any payments of restitution or liquidated damages which he finds to be due, regardless of whether the violations are considered willful or nonwillful. In cases where the request includes an assessment for liquidated damages, the contractor shall be advised that he may request relief from such assessment. In the event rebuttal information is submitted, the contracting officer shall reconsider his findings and notify the contractor of his decision in the light of such information. Under no circumstances will the contractor be permitted to examine the investigation report; however, upon request by the contractor, the basis for the findings of the contracting officer may be made available to him.

§ 18.704–12 Contracting officer's report.

(a) After taking the action prescribed in § 18.704–11, the contracting officer shall forward, in accordance with paragraph (b) of this section, a report which shall include:

(1) DD Form 1568, "Labor Standards Investigation Summary Sheet";

(2) His findings;

(3) Statement as to the disposition of any contractor rebuttal to the findings;

(4) Statement as to whether the contractor has accepted the findings and has paid any restitution or liquidated damages;

(5) Statement as to the disposition of funds available;

(6) Recommendations as to disposition or further handling of the case (when appropriate, include recommendations as to the reduction or nonassessment of liquidated damages, whether the contractor should be placed on the list of Debarred, Ineligible and Suspended Bidders, and whether the file should be referred for possible criminal prosecution); and

(7) The exhibit portion of the report which shall include, when applicable;

(i) Investigator's report;

(ii) Copy of contractor's written rebuttal or a summary of his oral rebuttal of the contracting officer's findings;

(iii) Copies of correspondence between the contractor and contracting officer, including a statement of the specific violations found, corrective action requested, and contractor's letter of acceptance or rejection;

(iv) Evidence of payment of restitution or liquidated damages, such as copies of receipts, canceled checks, or supplemental payrolls; and

(v) Letter from the contractor requesting relief from the liquidated damages provisions of the Contract Work Hours Standards Act.

(b) Where the investigation reveals no violations, where underpayments total less than $500 and are nonwillful, and where restitution and liquidated damages, if any, have been paid and compliance during the remainder of the contract is anticipated, the contracting officer may process the report, except in cases involving Air Force contracts, by closing the case without forwarding a report unless one has been requested. Where an Air Force contract is involved, a concise narrative report shall be submitted to the major Air Command Headquarters and the Air Force Liaison Officer (AFLO) having jurisdiction, and shall include, as a minimum, the contracting officer's findings and decision, amount of restitution paid each employee, and the amount of liquidated damages, if any. In all other investigations the contracting officer shall forward his report through channels as specified in subparagraphs (1) through (4) of this paragraph. When the contracting officer concludes that a criminal statute has been violated, he shall forward four extra copies of the report through the channels specified.

(1) *Army contracts.* The report, together with the recommendation of the Head of the Procuring Activity, shall be forwarded through channels to the Labor Advisor, except for reports on Corps of Engineers contracts not involving recommendations of sanctions against the contractor, which will be processed in accordance with the procedure established by the Chief of Engineers.

(2) *Navy contracts.* On contracts of the Naval Facilities Engineering Command, the report shall be forwarded through channels to the Commander of that Command. On contracts of other procuring activities, the report shall be forwarded through channels to the Chief of Naval Material, Attn.: Labor Relations Advisor.

(3) *Air Force contracts.* The report shall be forwarded to the AFLO for review, evaluation, and, if appropriate, processing to completion in accordance with Air Force procedures for disposition of cases which do not involve willful violations or as to which there is no disagreement between the AFLO and the Regional Attorney, Department of Labor (RADL) as to proper disposition of the case. The AFLO shall submit all cases involving either willful violations or AFLO-RADL disagreements concerning disposition through Headquarters Air Force Systems Command (SCKML) to Headquarters USAF (APSPPDA) for Headquarters USAF evaluation and final disposition. Reports involving criminal violations shall be referred to the nearest Office of Special Investigations District Officer for review and disposition.

(4) *Defense Supply Agency contracts.* The report shall be forwarded together with the recommendation of the Head of the Procuring Activity to Headquarters, Defense Supply Agency, Attn.: DSAH–FP.

(c) Reports processed in accordance with paragraph (b) of this section shall be forwarded along with recommendations by the Departmental headquarters to the Solicitor of Labor. Except as specifically authorized, the findings, recommendations, or conclusions of such reports shall not be disclosed outside of reporting channels. In those cases where there are probable criminal violations, the Department shall forward two copies of the report to the Attorney General for possible prosecution, and the Solicitor of Labor shall be informed of such action.

§ 18.704–13 Suspensions of and deductions from contract payments.

(a) When the contracting officer believes a violation exists, he shall withhold from payments due the contractor an amount equal to the estimated underpayments, as well as any estimated liquidated damages due the United States under the Contract Work Hours Standards Act. If, after investigation, no violations are found, the funds withheld shall be released.

(b) If the investigation reveals violations, a sufficient amount shall continue to be withheld until the contractor makes restitution. When voluntary restitution is not made, the contracting officer, upon submission of his report, shall forward to the appropriate disbursing officer a Standard Form 1093, "Schedule of Withholdings Under the Davis-Bacon Act," listing the name, last known address of each employee involved, the amount due each employee, and a brief statement of the reason for requiring restitution. The form shall indicate whether a report is being forwarded to the Department of Labor. The disbursing officer shall, without waiting for final processing of the report, forward the funds withheld for restitution, together with Standard Form 1093, to the General Accounting Office. Employees to whom restitution is due should be advised to file a claim with the Comptroller General, Claims Division, Washington, D.C. 20548. Such employees may be assisted in the preparation of their claims.

(c) When restitution is not made, because an employee cannot be located, Standard Form 1093 shall so indicate and be submitted by the disbursing officer to the General Accounting Office. The form shall be accompanied by a check payable to the Treasurer of the United States covering the gross amount of restitution due. In those cases not requiring processing of a report through higher headquarters, the following notation shall be made on the form:

(number) employees were underpaid in the total amount of $_____. The Contractor has voluntarily paid _____ employees the sum of $_____, but could not locate the following listed employees due restitution. Contractor concurs in the amounts due. Imposition of ineligibility sanctions is not recommended.

(d) When the investigation discloses that liquidated damages are due the United States under the Contract Work Hours Standards Act, and voluntary payment is not made, the funds withheld shall be disposed of in accordance with Departmental procedures.

§ 18.704–14 Contract termination reports.

Whenever a contract is terminated for violation of the labor standards provision, a report shall be submitted by the Department concerned to the Solicitor of Labor and the Comptroller General. The report shall include the contract number, the contractor's or subcontractor's name and address, the name and address of the contractor or subcontractor who is to complete the work, the number and amount of the latter's con-

tract, and a description of the work thereunder.

§ 18.704–15 Cooperation with the Department of Labor.

(a) In connection with the enforcement of labor standards, it is the policy of the Department of Defense to encourage cooperation between representatives of the Departments and the Department of Labor. In cases where investigations are undertaken by representatives of the Department of Labor, appropriate representatives of the Department concerned shall provide reasonable assistance in connection with the inspection of records, interviews with workers, and other aspects of the investigation, and upon appropriate request shall furnish to the Department of Labor pertinent information with respect to contractors, subcontractors, and their contracts, and the nature of the contract work. In cases where an investigation is undertaken by the contracting officer or his representative, the appropriate representatives of the Department of Labor in that Department's regional offices may be requested to provide opinions, advice, or other assistance. In the event communication by a representative of the Department concerned with the national offices of the Department of Labor is necessitated, however, it will be accomplished in accordance with the provisions of § 12.101–1(d) of this chapter, rather than through the referenced regional offices.

(b) When a Department of Labor representative undertakes an investigation at a construction project, the officer administering the construction contract or the officer-in-charge shall inquire into the scope of the investigation, and shall request the Department of Labor representative to notify him immediately of any violations of the Davis-Bacon Act, Contract Work Hours Standards Act, or Copeland Act.

§ 18.704–16 Adjustment of liquidated damages under the Contract Work Hours Standards Act.

Under the Contract Work Hours Standards Act contractors are liable to affected employees for unpaid wages, and liable to the United States for liquidated damages in the sum of $10 per calendar day for each laborer or mechanic who was not paid overtime wages as required by the Act. Therefore, when violations are found, the amount of liquidated damages must be computed. Whenever the sum of liquidated damages is $100 or less, and the violations are found to be nonwillful, or inadvertent, and occurred notwithstanding the exercise of due care by the contractor or his agent, the Secretary or his designee, at a level no lower than the Head of a Procuring Activity, may waive or adjust such liquidated damages. Whenever the liquidated damages exceed $100, the Secretary or his designee, at a level no lower than the Head of a Procuring Activity, may recommend to the Solicitor of Labor that assessed liquidated damages be waived or adjusted because the violation was nonwillful, or inadvertent, and occurred notwithstanding the exercise of due care.

§ 18.705 Construction labor standards report.

(a) A semiannual report is required on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and related Acts. The reporting periods are January 1, through June 30, and July 1, through December 31. Within 20 days after the close of the reporting period, contracting officers administering contracts subject to construction labor standards provisions shall forward their reports through channels to the appropriate Head of a Procuring Activity. Heads of Procuring Activities shall consolidate and forward these reports to the labor relations advisor of the Department concerned within the next ten days. Each Department shall submit its consolidated report to the Office of the Assistant Secretary of Defense (Manpower) within the next 5 days.

(b) The report shall contain the following information:

(1) Period covered by the report;

(2) Number of contract awards subject to construction labor standards provisions;

(3) Number of preconstruction conferences held;

(4) Number of compliance checks performed;

(5) Number of employees interviewed;

(6) Number of complaints received from—

(i) Labor unions,

(ii) Individual employees,

(iii) Department of Labor, and

(iv) Others, including Congressional;

(7) Number of investigations undertaken;

(8) Number of contracts on which violations were found as a result of compliance checks and investigations;

(9) Number of employees and the total amount paid or withheld under the Davis-Bacon Act, the Contract Work Hours Standards Act, and the Copeland Act (numbers and amounts shall be separately stated for each Act); and

(10) The amount of liquidated damages under the Contract Work Hours Standards Act and the number of contracts involved.

§ 18.706 Disposition of disputes arising out of construction contract labor standards enforcement.

The areas of possible differences of opinion between contracting officers and contractors in construction contract labor standards enforcement include misclassification of workers, hours of work, wage rates and payment, withholding practices, and the application of the labor standards provisions under varying circumstances. For the most part, these are settled administratively at the project level—if necessary, with assistance from the Head of the Procuring Activity, the Department concerned, and the Department of Labor—without reference to the Disputes clause of the construction contract. Disputes arising out of the labor standards provisions of a contract which cannot be settled administratively at the project level shall be subject to the Disputes clause, except for disputes involving the meaning of classifications, wage rates contained in the wage determination decisions of the Secretary of Labor, or the applicability of contract labor provisions. Pursuant to the clause in § 7.603–26, these shall be referred to the Secretary of Labor for an opinion, in accordance with procedures of the Department of Labor, with sufficient supporting data to explain both sides of the dispute. This action should be taken under the appropriate section of 29 CFR, before a contracting officer's decision, which might be affected by such an opinion of the Secretary of Labor, is made pursuant to the Disputes clause. The opinion obtained shall be made a part of the contract file and shall be applied (a) in the investigation of the case, (b) in the computation of wage underpayments, and (c) by the contracting officer in reaching his decision pursuant to the Disputes clause. In the event the contractor initiates an appeal before the opinion of the Secretary of Labor is received, the opinion should be obtained promptly and made a part of the appeal file.

§ 18.906 Processing of infringement claims.

See Subpart D, Part 9 of this chapter.

PART 22—SERVICE CONTRACTS

26. A new Part 22 is added to this subchapter, headed as set forth above, to read as follows:

Sec.

AUTHORITY: The provisions of this Part 22 issued under sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 22.000 Scope of part.

This part deals generally with the obtaining of services by contract, and specifically with certain types of contracts which can properly be classified as service contracts. It does not cover the services of individuals obtained by direct appointment or through normal Civil Service employment procedures, nor does it cover the obtaining of services by grant.

Subpart A—Service Contracts in General

§ 22.101 Definition of service contract.

(a) A service contract is one which calls directly for a contractor's time and effort rather than for a concrete end product. For purposes of this definition, a report shall not be considered a concrete end product if the primary purpose of the contract is to obtain the contractor's time and effort and the report is merely incidental to this purpose.

(b) Service contracts as defined above are generally found in areas involving the following:

(1) Maintenance, overhaul, repair, servicing, rehabilitation, salvage, and modernization or modification of supplies, systems and equipment;

(2) Maintenance, repair, rehabilitation, and modification of real property;

(3) Architect-engineering (see Part 18 of this chapter);

(4) Expert and consultant services;

(5) The services of DOD-sponsored organizations;

(6) Installation of equipment obtained under separate contract;

(7) Operation of Government-owned equipment, facilities, and systems;

(8) Engineering and technical services;

(9) Housekeeping and base services;

(10) Transportation and related services;

(11) Training and education;

(12) Medical services;

(13) Photographic, printing and publication services;

(14) Mortuary services;

(15) Communications services;

(16) Test services;

(17) Data processing;

(18) Warehousing;

(19) Auctioneering;

(20) Arbitration;

(21) Stevedoring; and

(22) Research and development (see Part 4 of this chapter).

§ 22.102 "Personal services."

§ 22.102–1 Policy.

The Civil Service laws and regulations and the Classification Act lay down requirements which must be met by the Government in hiring its employees, and establish the incidents of employment. In addition, personnel ceilings have been established for the Department of Defense. Except as otherwise authorized by express statutory authority (e.g., 5 U.S.C. 55a as implemented by the annual Department of Defense Appropriation Act—expert and consultant services (see Subpart B of this part)), these laws and regulations shall not be circumvented through the medium of "personal services" contracting, which is the procuring of services by contract in such a manner that the contractor or his employees are in effect employees of the Government. The contracting officer is responsible for assuring the implementation of this policy by considering the criteria in § 22.102–2 before entering into any service contract, and by obtaining a legal opinion in any doubtful case and in any case where express statutory authority for a personal service contract is to be invoked.

§ 22.102–2 Criteria for recognizing personal services.

There are no definitive rules for characterizing particular services as "personal" or "nonpersonal." There are many factors involved, none of which alone is necessarily conclusive; the characterization in a particular case can only be the result of a balancing of the factors. The following factors shall be considered, as well as any others which are relevant:

(a) The nature of the work—

(1) Whether the Government can obtain civil servants to do the job, or whether the contractor has specialized knowledge or equipment which is unavailable to the Government;

(2) Whether the services represent the discharge of a Governmental function which calls for the exercise of personal judgment and discretion on behalf of the Government (this element, if present in a sufficient degree, may alone render the services personal in nature); and

(3) Whether the requirement for services to be performed under the contract is continuing rather than short-term or intermittent;

(b) Contractual provisions concerning the contractor's employees (in considering the following, it should be noted that supervision and control of the contractor or his employees, if present in a sufficient degree, may alone render the services personal in nature)—

(1) Whether the Government specifies the qualifications of, or reserves the right to approve, individual contractor employees (but granting or denying security clearance and providing for necessary health qualifications are always permissible controls over contractor employees);

(2) Whether the Government reserves the right to assign tasks to and prepare work schedules for contractor employees during performance of the contract;

(3) To what extent the Government retains the right (whether actually exercised or not) to supervise the work of the contractor employees, either directly or indirectly;

(4) To what extent the Government reserves the right to supervise or control the method in which the contractor performs the service, the number of people he will employ, the specific duties of individual employees, and similar details (however, it is always permissible to provide in the contract that the contractor's employees must comply with regulations for the protection of life and property);

(5) Whether the Government will review performance by each individual contractor employee, as opposed to reviewing a final product on an overall basis after completion of the work;

(6) Whether the Government retains the right to have contractor employees removed from the job for reasons other than misconduct or security;

(c) Other provisions of the contract—

(1) Whether the services can properly be defined as an end product;

(2) Whether the contractor undertakes a specific task or project that is definable either at the inception of the contract or at some point during performance, or whether the work is defined on a day-to-day basis;

(3) Whether payment will be for results accomplished or solely according to time worked; and

(4) To what extent the Government is to furnish the office or working space, facilities, equipment, and supplies necessary for contract performance; and

(d) Administration of the contract—

(1) Whether the contractor employees are used interchangeably with Government personnel to perform the same functions;

(2) Whether the contractor employees are integrated into the Government's organizational structure; and

(3) Whether any of the elements in paragraphs (b) and (c) of this section are present in the administration of the contract, regardless of whether they are provided for by the terms of the contract.

§ 22.102–3 Examples of personal versus nonpersonal services.

It is to be emphasized that the examples below are for illustrative purposes only and are not to be used as the basis for a determination in any specific case.

(a) *Personal.* The following are examples of personal services contracts:

(1) Contract for the furnishing of ordinary, day-to-day stenographic and secretarial services in a Government office under Government supervision exercised either directly or through a contractor supervisor, even if only for a peak work period of 2 weeks;

(2) Contract for preparation of a staff type report on the operation of a particular Government office or installation, where no specialized skills are required and the report would ordinarily be prepared by the regular officers or employees of the office or installation even if there is to be no Government supervision and even if payment is to be for an "end product" report;

(3) Contract for the furnishings of persons to perform the various day-to-day functions of contract administration for a Government agency, even if there is no Government supervision; and

(4) Contract with an accounting firm to come in and perform day-to-day accounting functions for the Government.

(b) *Nonpersonal.* The following are examples of nonpersonal service contracts:

(1) Contract for field engineering work requiring specialized equipment and trained personnel unavailable to the Government but not involving the exercise of discretion on behalf of the Government, where the contractor performs work adequately described in the contract free of Government supervision;

(2) Contract with an individual for delivery of lectures without Government supervision, at specific places on specific dates, and on a specialized subject, even if payment is by the hour;

(3) Contract for janitorial services, where the contract provides for specific tasks to be performed in specific places, free of Government direction, supervision, and control over the contractor's employees, at a fixed price for the work to be performed; and

(4) Research and development contract, providing a fixed price for a level of effort, as long as the work is performed by the contractor independently of Government direction, supervision, and control.

§ 22.102–4 Determination by contracting officer; documentation of contract file.

At the time the contracting officer receives, through a purchase request or other document, any requirement for the procurement of services, he shall determine whether the procurement is proper in the light of the personal services policy in § 22.102. He shall not proceed with the procurement without documenting the contract file with:

(a) A brief memorandum of his determination that the services are nonpersonal, together with his reasons and all the facts which bear on the personal-nonpersonal question, or a memorandum of his determination that procurement of the services is expressly authorized by statute, regardless of whether personal; and

(b) An opinion of counsel obtained pursuant to § 22.102–1 in any doubtful case and in any case where express statutory authorization is invoked; and

(c) Any further documentation which may be required by Departmental implementation.

§ 22.103 Competition in service contracting.

The provisions of statute and of this subchapter requiring competition are fully applicable to service contracts. Therefore, unless otherwise provided by statute, contracts for services shall be awarded through formal advertising, whenever "feasible and practicable under the existing conditions and circumstances" (10 U.S.C. 2304(a); § 1.300–2 of this chapter). When formal advertising is not feasible and practicable and negotiations is authorized (see 10 U.S.C. 2304(a)(1)–(17); Subpart B Part 3 of this chapter), competition still must be obtained to the maximum practicable extent, except for procurements not in excess of $250 (§§ 1.300–1, 3.101, 3.604). The method of obtaining competition will vary with the type of service being procured, and will not necessarily be limited to price comparison alone (see § 3.805–1(d)).

§ 22.104 Conflict of interest in service contracting.

In procuring services by contract, the applicable provisions with respect to conflicts of interest shall be observed (see § 1.113 and Part 141 of this chapter).

§ 22.105 Small business certificate of competency.

In those service contracts where the highest competence obtainable is a requirement of the Government, the small business certificate of competency procedures may not be applicable (see § 1.705–4(b)).

§ 22.106 Service Contract Act of 1965.

Implementation of the Service Contract Act of 1965 (P.L. 89–286), which provides for minimum wages and fringe benefits as well as other conditions of work under certain service contracts, is contained in Subpart J, Part 12 of this chapter.

Subpart B—Procurement of Expert or Consultant Services

§ 22.200 Scope of subpart.

This subpart sets forth policy and procedures for the procurement by contract, pursuant to 5 U.S.C. 55a, of expert or consultant services (including stenographic reporting services) from individuals and from firms, regardless of whether personal. This subpart does not govern employment of individual experts or consultants by excepted appointment; the requirements for such employment are set forth in personnel regulations of the Civil Service Commission and of the respective Departments.

§ 22.201 Statutory authority.

(a) Authority for the procurement by contract of expert and consultant services is found in section 15 of the Administrative Expenses Act of August 2, 1946, as amended (P.L. 79–600; 60 Stat. 810; 5 U.S.C. 55a), as implemented by annual appropriation acts or by other legislation. Most contracts for expert or consultant services are executed by the Military Departments pursuant to the authority contained in the General Provisions of the annual Department of Defense Appropriation Act.

(1) 5 U.S.C. 55a provides:

> The head of any department, when authorized in an appropriation or other Act, may procure the temporary (not in excess of 1 year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract, and in such cases such service shall be without regard to the civil-service and classification laws (but as to agencies subject to the Classification Act of 1949 at rates not in excess of the per diem equivalent of the highest rate payable under such Act, unless other rates are specifically provided in the appropriation or other law) and, except in the case of stenographic reporting services by organizations, without regard to section 5 of Title 41.

(2) Typical of the language which is enacted each year in the General Provisions of the Department of Defense Appropriation Act implementing 5 U.S.C. 55a is section 601 of the Act of September 29, 1965 (P.L. 89–213; 79 Stat. 873), which provides:

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

(b) Except in the case of stenographic reporting services, contracts with individuals or firms for expert and consultant services are usually negotiated, normally under the authority of 10

U.S.C. 2304(a)(4), as implemented by § 3.204 of this chapter.

§ 22.202 Definition of experts and consultants.

(a) The terms "experts" and "consultants" shall include those persons who are exceptionally qualified, by education or by experience, in a particular field to perform some specialized service.

(b) Stenographic reporting services are included in the term "expert or consultant services" for purposes of procurement by contract under this subpart.

§ 22.203 Policy.

(a) The proper use of experts and consultants is a legitimate and economical way to improve Government services and operations. Activities of the Departments can be strengthened by utilizing the highly specialized knowledge and skills of such individuals. Accordingly, the services of experts and consultants may be used at all organizational levels to help managers achieve maximum effectiveness and economy in their operations. However, experts and consultants shall not be used to perform duties which can be performed by regular employees, to fill positions which call for full-time continuing employees, or to circumvent competitive civil service procedures and Classification Act pay limits.

(b) The following are examples of services which may be procured from experts or consultants by contract:

(1) Specialized opinion unavailable in the Department;

(2) Outside points of view, to avoid too limited judgment, on critical administrative or technical issues;

(3) Advice on developments in industrial and other research;

(4) For especially important projects, opinions of noted experts which are highly important to the success of an undertaking;

(5) The advisory participation of citizens to develop or implement Government programs that by their nature or by statute call for citizen participation;

(6) The services of specialists who are not needed full-time, who cannot serve regularly or full-time, or whose full-time employment is uneconomical to the Government.

§ 22.204 Limitations on use of expert or consultant authority.

§ 22.204–1 General.

Obtaining the benefit of expert or consultant services by contract, pursuant to 5 U.S.C. 55a, is subject to the following limitations:

(a) The employment of individual experts or consultants shall be by contract only when the services required cannot be obtained by excepted appointment in accordance with personnel regulations.

(b) The nature of the duties to be performed must be temporary (not more than one year) or intermittent (not cumulatively more than 130 days in one year). Accordingly, no contract shall be entered into for longer than one year at a time. (However, contracts may be renewed annually; see § 22.212.)

(c) Procurement of the services must be advantageous to the national defense.

(d) Such services shall not be used when existing facilities of the particular Department are adequate or when personnel with the necessary skills can be obtained through normal civil service appointment procedures.

(e) Procurement of such services by contract shall not be used as a means of circumventing manpower space ceilings.

§ 22.204–2 Contracts crossing fiscal years.

Because the implementing appropriation act authorizing the procurement of expert and consultant services expires and must be renewed each fiscal year (see § 22.201), a contract under this authority shall not cross fiscal years—even in cases where funds could properly be obligated to a contract calling for services in parts of two fiscal years—unless it calls for an end product which cannot feasibly be subdivided for separate performances in each fiscal year. No contract shall cross fiscal years unless authorized to do so in accordance with § 22.205(c)(8). This section shall apply equally to contracts with individuals and contracts with firms.

§ 22.205 Authorization to enter into contracts: "Determinations and Findings."

(a) All contracts to be entered into pursuant to 5 U.S.C. 55a for expert or consultant services must be authorized in writing by a Determinations and Findings (D&F) signed in accordance with Departmental regulations. Ordinarily each contract shall be separately authorized. However, when the determinations can appropriately be made with respect to a class of contracts, the authorizing official may issue blanket authority for that class of contracts by signing a class D&F.

(b) Each D&F shall authorize a contract or class of contracts to be entered into during a stated period not to exceed 1 year, which ordinarily shall be within 1 fiscal year. A D&F may be issued during 1 fiscal year to authorize a contract or class of contracts to be entered into during the following fiscal year, provided the determinations are reasonably expected to hold true at the time the contract or contracts are to be entered into and provided that either the D&F is made contingent upon enactment of implementing legislation or implementing legislation for the next fiscal year has already been enacted.

(c) Each D&F shall contain the following:

(1) A brief description of the services authorized to be procured, including for individual D&Fs the estimated time of performance and the estimated cost;

(2) Determination by the authorizing official with respect to the particular contract or class of contracts that:

(i) The duties to be performed are of a temporary or intermittent nature;

(ii) Procurement of the services is advantageous to the national defense;

(iii) The existing facilities of his Department are inadequate to furnish the services;

(iv) It is not feasible to obtain personnel with the necessary skills through normal civil service appointment procedures; and

(v) Any other determinations required by the statutes under the authority of which the procurement is made;

(3) A citation of statutory authority, namely, 5 U.S.C. 55a and (except where subparagraph (7) of this paragraph is applicable) appropriate implementing legislation; the latter may be the current annual Department of Defense Appropriation Act, a current temporary Department of Defense appropriation enactment or other appropriate implementing legislation;

(4) A grant of authority to procure the required services and, if desired, to renew the contract;

(5) The condition that the necessary funds must be available for obligation;

(6) The condition that no contract may be entered into for longer than one year at a time;

(7) An added condition, in cases where the D&F covers a period for which implementing legislation has not yet been enacted, that at the time the procurement is entered into there must be in effect a law authorizing the procurement pursuant to 5 U.S.C. 55a and requiring no further Secretarial action than that required by the implementing legislation current at the time the D&F is issued;

(8) Where appropriate, authorization to contract across fiscal years (see § 22.204–2), and in such cases, where the implementing authority cited is annual legislation, an added condition that in the event the implementing authority is not renewed for the following fiscal year the contracting officer shall terminate the contract in accordance with its terms; and

(9) The date of expiration of the authority granted by the D&F.

§ 22.206 Requests for determinations and findings.

Requests for authorization to procure expert or consultant services pursuant to 5 U.S.C. 55a, whether from individuals or from firms, must contain statements required by Departmental regulations to support the determinations. The responsibilities of the various organizational levels in the Departments with respect to requests for D&Fs are also set forth in Departmental regulations.

§ 22.207 Contracts with individual experts or consultants.

§ 22.207–1 Method and amount of payment.

The contract may provide for compensation at rate for time actually worked (e.g., amount per day, per week, per month, etc.), or it may provide for performance of a specific task at a fixed price, or it may provide for nominal compensation. The amount or rate of payment will be determined on a case-by-case basis, taking into account (among any other relevant factors) the relative importance of the duties to be performed.

the stature of the individual in his specialized field, comparable pay for positions under the Classification Act or other Federal pay systems, rates paid by private employers, and rates previously paid other experts or consultants for similar work. Normally, compensation will be at the per diem equivalent of salaries in the GS–13 to GS–15 range. Compensation for personal services is subject to the limitation in § 22.210.

§ 22.207–2 Benefits.

When an individual expert or consultant is furnishing personal services and the contract provides for a regularly scheduled tour of duty during each administrative workweek, the contract shall also provide that the contractor will be accorded the same paid annual and sick leave benefits as those to which he would be entitled under Departmental personnel regulations if he were employed by excepted appointment during the period of the contract. The contract may also provide for similar benefits (e.g., paid holidays, paid administrative leave), but these shall in no event exceed those to which the individual would be entitled under excepted appointment. No benefits shall be accorded the contractor which are not specifically provided for in the written contract. The contracting officer shall effect necessary coordination with the cognizant civilian personnel office (see § 22.207–5).

§ 22.207–3 Taxes.

Where the individual is to render personal services, the compensation generally is subject to FICA (Social Security), FUTA (Unemployment), and federal income withholding tax. It may also be necessary to report or withhold State income tax under 5 U.S.C. 84b. The contracting officer shall take appropriate steps in coordination with the cognizant civilian personnel office to have deductions and reports made where required by law.

§ 22.207–4 Conflict of interest.

The contracting officer shall assure himself that individual experts or consultants who are to render personal services under contract familiarize themselves with Executive Order 11222, May 8, 1965, "Prescribing Standards of Ethical Conduct for Government Officers and Employees," 30 F.R. 6469 (1965), and that they comply with it and with Departmental regulations implementing it.

§ 22.207–5 Administrative treatment.

Individual experts or consultants who are to render personal services under contract are charged against personnel ceilings in the same way as experts and consultants employed by expected appointment. Also, the cognizant civilian personnel office must maintain certain records on individual experts and consultants who render personal services. Therefore, the contracting officer shall effect necessary coordination with the cognizant civilian personnel office before award of a contract for personal services, and may also designate the appropriate civilian personnel officer as his representative for the purpose of administering contract provisions relating to benefits, obtaining necessary data from the contractor for tax withholding purposes, and administering applicable conflict of interest provisions.

§ 22.208 Contracts with firms for expert or consultant services.

Contracts with firms for expert or consultant services ordinarily should deal only with rights and obligations as between the Government and the firm, and should not deal with the question of compensation by the firm of the individuals it assigns to the work or with any other rights or obligations as between the firm and these individuals. However, where the services to be rendered are personal services, payment for the services of each expert or consultant is subject to the limitation in § 22.210.

§ 22.209 Contracts for stenographic reporting services.

Stenographic reporting services normally are provided by regular civilian employees appointed under the usual civil service procedures. However, under certain circumstances these services may be procured by contract from individuals or firms pursuant to 5 U.S.C. 55a, as where there are variable requirements or insufficient qualified personnel, and necessity or economy to the Government demands procurement by contract. Such contracts normally shall be written on an end-product basis and payment made according to delivered items (e.g., number of copies of transcript, words per page, etc.), and the contractor ordinarily shall be required to furnish the necessary materials (typewriter, paper, bindings, etc.). These contracts are subject to all the provisions of this subpart.

§ 22.210 Limitation on payment for personal services.

(a) Where the expert or consultant services being procured pursuant to 5 U.S.C. 55a personal services, payment for the services of each expert or consultant shall not exceed the highest rate fixed by the Classification Act pay schedules for grade GS–15—or, in the case of professional engineering services primarily involving research and development or professional services involving physical or natural sciences or medicine, the highest rate payable to a GS–18. In addition, the contract may provide for such per diem and travel expenses as would be authorized for a Government employee, including actual transportation and per diem in lieu of subsistence while the expert or consultant is traveling between his home or place of business and his official duty station.

(b) If a fixed-price contract which is predominantly for nonpersonal services also includes personal services, the requirements of paragraph (a) of this section are applicable to the personal services if it is feasible and practicable to price them separately.

§ 22.211 Modification of contracts.

When supplemental agreements or change orders are required which substantially change the basis upon which the D&F was made, such as to revise substantially the scope of work or time limitations, or to apply additional funds; authorization shall be requested in the same way as authorization to procure the services by contract in the first place.

§ 22.212 Renewal of contracts.

§ 22.212–1 General.

A contract may provide for renewal—for a maximum of 1 year each time—by written notification to the contractor from the contracting officer.

§ 22.212–2 Applicable D&F required.

A contract shall not be renewed unless either a new D&F has been issued, or the D&F authorizing the original contract (or a prior renewal) has not yet expired and specifically authorizes the renewal, or an unexpired class D&F covering that type of contract is in effect.

§ 22.212–3 Other requirements.

Renewal of a contract legally creates a new contract; therefore, renewal of a contract is improper unless all the requirements and limitations of this subpart have been complied with.

Subpart C—Engineering and Technical Services

§ 22.301 Definition of contractor engineering and technical services.

"Contractor engineering and technical services" consist of the furnishing of advice, instruction, and training to Department of Defense personnel, by commercial or industrial companies, in the installation, operation, and maintenance of Department of Defense weapons, equipment, and systems. This includes transmitting the knowledge necessary to develop among those Department of Defense personnel the technical skill required for installing, maintaining, and operating such equipment in a high state of military readiness. These services may be subdivided into the following categories.

(a) "Contract plant services" (CPS) are those engineering and technical services provided by the trained and qualified engineers and technicians of a manufacturer of military equipment or components, in the manufacturer's own plants and facilities.

(b) "Contract field services" (CFS) are those engineering and technical services provided on site at defense locations by the trained and qualified engineers and technicians of commercial or industrial companies.

(c) "Field service representatives" are those employees of a manufacturer of military equipment or components who provide a liaison or advisory service between their company and the military users of their company's equipment or components.

§ 22.302 Contracting for engineering and technical services.

§ 22.302–1 General.

Every contract calling for engineering and technical services, whether it calls for only those services or whether it calls for those services in connection with the furnishing of an end item, shall show

those services as a separate and identifiable line item separately priced. The contract shall contain definitive specifications for the services and shall show the man-months involved.

§ 22.302–2 Personal services.

Notwithstanding § 22.102, in the event unusual requirements involving essential mission accomplishment necessitate the procurement of contract field services (CFS) which appear to be personal services, those services may be obtained by contract for an interim period if that particular procurement is specifically authorized by the Assistant Secretary of Defense (Manpower).

Subpart D—Stevedoring Contracts

§ 22.400 Scope of subpart.

Procurement procedures peculiar to stevedoring are set forth in this subpart. This subpart, however, does not contain or cross reference all provisions of this subchapter applying to service contracts which shall be adhered to where applicable. Contract clauses for stevedoring contracts are set forth in Subpart J, Part 7 of this chapter.

§ 22.401 Definition of stevedoring.

Stevedoring is the loading of cargo from an agreed point of rest on a pier or lighter and its storage aboard a vessel, or the breaking out and discharging of cargo from any space in the vessel to an agreed point of rest dockside or in a lighter.

§ 22.402 Method of procurement.

Procurement of stevedoring services shall be made by formal advertising pursuant to 10 U.S.C. 2304(a) whenever such method is feasible and practicable under existing conditions and circumstances even though such conditions and circumstances would otherwise satisfy the requirements of Subpart B, Part 3 of this chapter.

§ 22.403 Type of contract.

Normally, stevedoring services will be contracted for by means of an indefinite quantity type contract. Contracts for single job stevedoring services may be made when no indefinite quantity contract is available to fulfill the requirements.

§ 22.404 Technical provisions.

§ 22.404–1 Conditions for use.

Since conditions vary at different ports and sometimes within the same port, standard technical provisions covering all phases of stevedoring operation are impractical. If carloading and unloading or other dock and terminal work will be performed under a stevedoring contract, technical provisions appropriate for such dock and terminal work should be added to the contract as separate items of work.

§ 22.404–2 Clauses.

The clauses containing technical provisions in § 7.1001 are normally made a part of every stevedoring contract. While these clauses will cover most situations adequately, the various provisions may be deleted, added to, modified, or rearranged as necessary to meet local conditions.

§ 22.405 Evaluation of bids and proposals.

§ 22.405–1 General.

Contractors' bids and proposals shall include tonnage or commodity rates which apply to the bulk of the cargo worked under normal conditions. Schedules of man-hour rates which apply to services not covered by commodity rates or to work performed under hardship conditions also shall be included.

§ 22.405–2 Analysis of tonnage or commodity rates.

The price quoted for handling a ton (weight or measurement) of a specified commodity is a commodity rate. This rate is computed by dividing the hourly stevedoring gang cost by the estimated number of tons of the specified commodity which can be handled in 1 hour. The gang cost consists of the following:

(a) The total hourly wages paid to the men in the gang in accordance with the collective bargaining agreement between the maritime industry and the unions at a specific port;

(b) Payments for workmen's compensation, social security taxes, unemployment insurance, taxes, and liability and property damage insurance; and

(c) General and administrative expenses and profit.

The direct costs shall be verified by the contracting officer. Since the negotiated stevedoring contract is designed to minimize the contractor's risk, the contractor's gang cost should contain no allowance for contingencies and the profit rate should be less than is granted in the usual fixed-price contract. The estimated number of tons of the specified commodity which can be handled in 1 hour is based on the contractor's experience and should be compared with the records of experience at the requiring activity. The evaluation of bids and proposals shall include an extension of the quoted commodity rates against the payable tonnage estimated to be handled for each commodity.

§ 22.405–3 Analysis of man-hour and equipment rental rates.

Man-hour rates shall be established for every category of labor expected to be necessary to perform services required under the contract. The development of man-hour rates follows a pattern similar to the method used in arriving at a gang cost. Specifically, it is composed of the basic wage rate of the man, workmen's compensation, social security taxes, insurance, general and administrative expenses, and profit. The evaluation of bids and proposals shall include an extension of the quoted man-hour rates against the estimated man-hour requirements for each artisan classification. Rates for equipment rental shall be extended against estimated equipment hours.

§ 22.406 Award of contract.

The award shall be made to the responsible contractor who offers the lowest overall acceptable bid or proposal after evaluating the total estimated cost of tonnage to be moved at commodity rates and estimated cost at man-hour rates.

Subpart E—Procurement of Mortuary Services

§ 22.500 Scope of subpart.

Procurement procedures peculiar to contracts for mortuary services (the care of remains) of military personnel within the United States are set forth in this subpart. These procedures may be used as guidance in areas outside the United States in procuring such services for both deceased military and civilian personnel. Uniform contract clauses for care of remains contracts are set forth or referenced in Subpart L, Part 7 of this chapter.

§ 22.501 Method of procurement.

§ 22.501–1 Procurements by requirements type contract.

By agreement among the military activities involved, one military activity in each geographical area shall contract for the estimated requirements for the care of remains for all activities in the area. Procurement shall be by use of a requirements type contract (see § 409–2 of this chapter) when the estimated annual requirements for the individual activity concerned, or for the activities using one contract, are 10 or more. Except where negotiation is authorized under Subpart B, Part 3 of this chapter, such contracts shall be formally advertised. The contracts shall be for the fiscal year or a portion thereof ending on June 30, except for noncontinuous requirements for shorter periods.

§ 22.501–2 Procurements by purchase order.

Where no contract exists, such services shall be obtained by use of DD Form 1155 (Order for Supplies and Services) and DD Form 1155s (Additional General Provisions, Modification, and Acceptance) (see § 3.608), inserting in the Schedule the clauses prescribed in § 3.608–2(b)(1)(xii) of this chapter.

§ 22.501–3 Solicitation planning.

Bids or offers for annual requirements for the next fiscal year shall be solicited in January.

§ 22.501–4 Area of performance.

Each contract for case of remains (except Port of Entry Requirements contracts) shall clearly define the geographical area covered by the contract. The area shall be determined by the activity entering into the contract in accordance with the following general guidelines. It shall be an area using political boundaries, streets, or other features as demarcation lines. Generally, this should be a size roughly equivalent to the con-

tiguous metropolitan or municipal area enlarged to include the activities served. In the event the area of performance best suited to the needs of a particular contract is not large enough to include a carrier terminal commonly used by people within such area, the contract area of performance shall specifically state that it includes such terminal as a pick-up or delivery point.

§ 22.501–5 Distribution of contracts.

In addition to normal contract distribution, three copies of each contract shall be furnished to each activity authorized to use it, and two copies to each of the following:

(a) Office of the Chief of Support Services, Department of the Army, Attn.: SPTS–MD, Washington, D.C. 20315.

(b) Bureau of Medicine and Surgery (454), Department of the Navy, Washington, D.C. 20390.

(c) Headquarters, AFLC (MCAMM), Wright-Patterson AFB, Ohio 45433.

§ 22.502 Solicitation provision.

Invitations for bids for mortuary services contracts shall contain the provision set forth below. This provision shall be appropriately modified for use in requests for proposals or quotations.

AWARD TO SINGLE BIDDER (OCTOBER 1965)

Subject to the provisions contained herein, award shall be made to a single bidder. Bids must include unit prices for each item listed in order that bids may be properly evaluated. Failure to do this shall be cause for rejection of the entire bid. Bids shall be evaluated on the basis of the estimated quantities shown and award shall be made to that responsible bidder whose total aggregate price is low.

§ 22.503 Schedule formats.

§ 22.503–1 Schedule format for other than port of entry requirements contracts.

Set forth below is an example of a Schedule format suitable for use in solicitations for other than port of entry requirements. The estimated quantities are only illustrative.

Item No.	Supplies, services and transportation	Estimated quantity	Unit	Unit price	Amount
1	For a Type I casket, standard size, shipping case, supplies and services in accordance with specifications.	20	Each		
2	For a Type I casket, exceeding standard size, shipping case, supplies and services in accordance with specifications.	4	Each		
3	For a Type II casket, standard size, shipping case, supplies and services in accordance with specifications.	5	Each		
4	For a Type II casket, exceeding standard size, shipping case, supplies and services in accordance with specifications.	2	Each		
5	For transportation of remains, in accordance with specifications and as provided for in paragraphs (b) and (c) of the "Area of Performance" clause of this contract.	200 loaded miles	Loaded mile.		

§ 22.503–2 Schedule format for port of entry requirements contracts.

Set forth below is an example of a Schedule format suitable for use in solicitations for port of entry requirements. The estimated quantities are only illustrative.

Item No.	Supplies, services and transportation	Estimated quantity	Unit	Unit price	Amount
1	For a Type I casket, standard size, shipping case, supplies and services in accordance with specifications.	30	Each		
2	For a Type I casket, exceeding standard size, shipping case, supplies and services in accordance with specifications.	4	Each		
3	For a Type II casket, standard size, shipping case, supplies and services in accordance with specifications.	5	Each		
4	For a Type II casket, exceeding standard size, shipping case, supplies and services in accordance with specifications.	2	Each		
5	For inspection and/or reprocessing of casketed remains prior to delivery to selected common carrier.	18	Each		
6	For transportation of remains between ..... and processing facility.	31	Loaded trip each.		
7	For transportation of remains between processing facility and selected common carrier or national cemetery as indicated below: X..... Y..... Z.....	 9 10 9	Loaded trip each.		
8	For transportation of remains between processing facility and any point within 100 miles as designated by the contracting officer.	200	Loaded mile.		

PART 30—APPENDIXES TO ARMED SERVICES PROCUREMENT REGULATIONS

27. In § 30.3, item 305 is revised; § 30.6 is revised; and in § 30.7 item K–203.1(a) is revised, as follows:

§ 30.3 Appendix C—Manual for control of Government property in possession of nonprofit research and development contractors.

* * * * *

305. *Receipting for Government property.* The contractor shall be required to furnish a written receipt for all, or specific classes of Government provided property only in those instances where such action is determined by the property administrator to be essential for maintenance of minimum acceptable property controls. In instances where the contract provides for transfer of title of equipment to the contractor pursuant to 4–214.4, the contractor shall be required to furnish a written receipt for all property in sufficient detail to permit submission of necessary reports under DOD Instruction 4105.54, Enclosure 2, presently implemented as follows: Army (AR 70–5), Navy (NPD 4–214.50), Air Force (AFPI Section LVII, Part 39), DSA (DSAR 4105.6), classified as equipment transferred by contract. In these instances the property administrator shall maintain for each contract a file of such documents or property record cards. Where such evidence of receipt is required, it shall be provided by the contractor not later than the time he submits his application for payment (public voucher).

* * * * *

§ 30.6 Appendix H—Manual for Military Standard Requisitioning and Issue Procedure (MILSTRIP) for Defense Contractors.

H–000 *Scope of MILSTRIP.* Military Standard Requisitioning and Issue Procedure (MILSTRIP), as the name implies, is a requisitioning and issue procedure for use by the Military Departments and contractors authorized by the terms of a contract, to requisition or move Government material to supply control cognizance. MILSTRIP is a system with uniform codes and punch-card formats designed to provide standard procedures of requisitioning, receiving, and returning Government material and to permit the maximum utilization of automatic data processing equipment.

PART 1—INTRODUCTION

H–100 *Scope of Manual.* This Manual provides policies, procedures, forms and instructions for use by contractors in the requisitioning of Government-furnished material (GFM) and the return of such material when directed by the cognizant Military Department in accordance with the requirement of the MILSTRIP system.

H–101 *Applicability of Manual.* (a) These procedures, forms, and instructions for the requisitioning and returning of Government-furnished material are prescribed for use by contractors when required by the terms of a contract pursuant to the appropriate Government Property clause as set forth in section XIII. For the purpose of this Manual, the Defense Personnel Support Center may furnish the following items of special tooling under these procedures: shoe

lasts, shoe patterns, hubs, dies, shaping blocks, printing rollers, printing roller containers, and inspection gauges.

(b) These procedures are not applicable to in-house control of Government-furnished material. Neither are MILSTRIP procedures applicable to the movement of Government-furnished material within or between contractors.

(c) These procedures do not prescribe the frequency of submitting requisitions, nor do they prescribe the source of supply or specify the material to be furnished by the Government, which shall be determined by the Military Department.

(d) Any requisition placed on a distribution system is a requirement for a serviceable item, unless otherwise agreed to between the Military Department and the contractor. However, this does not change the contractual obligations of the parties, and when the provisions of a contract are in conflict with this Manual, the specific terms of the contract shall govern. However, the codes, forms, and formats contained in this Manual will be used as prescribed.

H-102 *Definitions.* As used in this Manual, the following terms shall have the meanings set forth below.

H-102.1 *Advice codes.* A coding structure for the purpose of transmitting instructions considered by the originator of requisitions to be essential to the desired supply action. Insertion of advice codes is at the discretion of the initial document originator. These codes are opposite to status codes in that directional flow is reversed. (See H-607.)

H-102.2 *Document identifier.* A code that identifies the basic type of administrative action, the specific subtype of supply transaction, and related modifying instructions for each type of supply document used throughout the requisitioning, processing, and issuing functions or other types of supply transactions within and between military supply and distribution systems. (See H-602.)

H-102.3 *Routing identifier.* A code that identifies a specific supply and distribution organization as to its Military Department or governmental ownership and its geographical location. Routing identifier codes required by contractors will be provided in the contract or otherwise furnished by the procuring Military Department or Government Agency.

H-102.4 *Status codes.* A coding structure for the purpose of transmitting status information from the inventory manager and/or supply source to the originator of a requisition or the consignee. These codes are the opposite of advice codes in that directional flow is reversed. (See H-607.)

H-102.5 *Government-furnished material.* Property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor, and which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, a raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of the contract.

H-102.6 *Passing actions (generic term).* A general term identifying all types of supply actions associated with materiel demands within military supply distribution systems. The term is applicable when forwarding materiel demands from one military supply source to another military supply source. Specific types of passing actions are passing orders and referral orders.

H-102.7 *Passing order.* An order used to pass an erroneously routed requisition to the appropriate military depot or distribution point and to pass a requisition from one military distribution system to another.

H-102.8 *Referral order.* An order used between depots, inventory managers, or other managers in an established supply distribution system for the purpose of passing correctly routed requisitions for continued supply action when the initial activity cannot fill the demand.

PART 2—GENERAL POLICIES

H-200 *Scope of part.* This part (i) sets forth procedures and instructions for amending and deviating from this Manual, (ii) prescribes the forms for use by contractors, and (iii) contains general policies on the use by contractors of the MILSTRIP system.

H-201 *System maintenance.* (a) The Defense Supply Agency (DSA) is responsible for the Military Standard Requisitioning and Issue Procedure as prescribed by this manual.

(b) Recommendations, revisions, or suggested changes originated by contractors shall be forwarded to the cognizant contract administration office.

(c) Recommendations, revisions, or suggested changes received and concurred in or originated by the Military Departments shall be forwarded to the Director, Defense Supply Agency, Attention: DSAH-LS, Cameron Station, Alexandria, Va. 22314.

(d) Changes to this Manual shall be coordinated by the Defense Supply Agency. The provisions of the Armed Services Procurement Regulation pertaining to deviations (see 1-109) and to amendments (see 1-105) do not apply to this Manual. Requests by the Military Departments for deviations or waivers from this Manual may be approved by the Defense Supply Agency, but only the Assistant Secretary of Defense (Installations and Logistics) may disapprove such requests.

H-202 *Forms and use.*

H-202.1 *DOD Single Line Item Requisition System Document (Manual) (DD Form 1348).* DD Form 1348 is a four or six part form consisting of either two electrical accounting machine (EAM) cards—manila or paper (arranged as the first copy and the fourth or sixth copy), with two or four paper forms, carbon interleaved. The use of EAM cards or paper as the first and fourth or sixth copies is optional. However, when paper is used, the first copy shall be bond paper or equivalent, and the fourth or sixth copy may be bond paper or tissue. The form size shall remain unchanged when either cards or paper is used. All copies are identical in format except that the original copy does not provide for unit and total price data. In addition, the original card, when used, is upper left corner cut. DD Form 1348 appears as follows (see also F-200.1348):

DD Form 1348 is used as a:
(i) Manual requisition,
(ii) Manual followup,
(iii) Manual cancellation, and
(iv) Manual requisition modifier.

H-202.2 *DOD Single Line Item Requisition System Document (Mechanical) (DD Form 1348m).* DD Form 1348m is a standard electrical accounting machine (EAM) card—"Natural," with upper left corner cut (see F-200.1348m):

DD Form 1348m is used as a:
(i) Requisition,
(ii) Followup,
(iii) Cancellation,
(iv) Supply status card,
(v) Reply to followup,
(vi) Shipment status card,
(vii) Passing order,
(viii) Referral order,
(ix) Reply to cancellation request, and
(x) Requisition modifier.

H-202.3 *DOD Single Line Item Release/Receipt Document (DD Form 1348-1).* DD Form 1348-1 is a seven-part paper carbon interleaved continuous form of pin-feed, tear-away configuration, measuring 8 inches wide (usable) and 5½ inches in length (top to bottom). The form is designed to accept 10 printed characters to the inch. This form may be reproduced when additional copies are required. DD Form 1348-1 appears as follows (see also F-200.1348-1):

DD Form 1348-1 is used as a:

(i) Release document from distribution point to consignee resulting from a requisition,

(ii) Receipt document by the consignee, and

(iii) Shipping document for GFM turn-in.

H-202.4 *Messages.* Messages may be used for transmitting requisitions, followups, and cancellations. Set forth below is a sample of a message containing multirequisitions.

SAMPLE MESSAGE FORMAT

(Insert Addressee)
(Insert Message Number)
MILSTRIP REQUISITIONS:
1. A0A/FMZ/2/59501234567/EA/00040/EY91-85/6049/0001/N/[1] BLNK/D/12/089/[1] BLNK/07/[1] BLNK/2B
2. A0A/FMZ/B/59502345678/EA/00021/EY91-85/6049/0002/O/[1] BLNK/D/19/089/[1] BLNK/07/[1] BLNK/[1] BLNK
3. A0E/FMZ/B/12343456789/EA/00015/EY91-85/6049/0003/N/[1] BLNK/D/19/089/[1] BLNK/07/[1] BLNK/2B
   Remarks: Mfg Part Number referenced on Page 121 of Technical Instruction No. 45.
4. A0A / FMZ/M/59505671234/EA/00022/EY-9185 / 6049 / 0004 / N/[1] BLNK/D/[1] BLNK/089/[1] BLNK/07/[1] BLNK/2B

For explanatory purposes, the first requisition (item 1) is segmented and explained.

First Line: A0A/ (Document Identifier), FMZ/ (Routing Identifier), 2/ (Media and Status), 59501234567/ (Stock or Part Number), EA/ (unit of Issue), 00040/ (Quantity), EY9185/ (Requisitioner), 6049/ (Julian Date), 0001/ (Serial Number).

Second Line: N/ (Demand Code), [1] BLNK/ (Supplementary Address), D/ (Signal), 12/ (Fund Code), 039/ (Distribution Code), [1] BLNK/ (Project), 07/ (Priority), [1] BLNK/ (Required Delivery Date), 2B/ (Advice Code).

H-202.5 *Shipping Document for GFM Turn-In (DD Form 1483).* DD Form 1483 is a document authorized for turn-in of Government-furnished material. Department of Defense Forms, other than the DD Form 1483, used for turn-in shall contain as a minimum the data prescribed in H-502. The DD Form 1483 may be used for multiline or single-line turn-ins and accommodates all requirements for essential data elements. DD Form 1438 is set forth on the following pages. (See also F-200.1483.)

H-202.6 *Multiuse Standard Requisitioning/Issue System Document (DD Form 1348-4).* DD Form 1348-4 is a multiline item paper document designed to accommodate a maximum of 15 single line items on one sheet. The form may be used as a requisition by Defense Contractors for requisitioning Government-furnished material when such use is approved by the Military Service.

(a) The DD Form 1348-4 is a single part, paper document, measuring 10½ inches by 8 inches. The form may be prepared manually by pen or typewriter. The form consists of two parts which reflect document identification data and requisition data. The document identification data serves to identify

[1] When an element of data is not applicable, the field shall be recognized and entered as "BLNK."

a single document and is applicable to each line being requisitioned. The requisition data are the data applicable to the specific item being requisitioned. No deviations or modifications are authorized in the size, format, or use of the DD Form 1348–4 than as prescribed in this Manual.

(b) The block alignment of DD 1348–4 is compatible with the numeric block alignments of DD Forms 1348 and 1348m, with the exception of blocks 23, 24, and 25.

(c) The data entries of DD Form 1348–4 are the same as prescribed for requisitions submitted on DD Forms 1348 and 1348m, with the noted exceptions of blocks 23, 24, and 25. Block 23 is for optional use and may reflect such data as routing identifier codes required for intra-Department/Agency use. The signature block 25 is not required to be completed on contractor requisitions submitted on Department of Defense supply sources. Block 24 (Remarks) is provided for entry of data necessary to assist in supply decisions and which cannot be accommodated by the prescribed MILSTRIP codes. Blocks 9–11, document number and date, and block 12, serial number, are heavily black lined to facilitate document and line item identification and provide for ease of filing.

(d) Each item contained on DD Form 1348–4 will be processed separately as a single line without regard to other items contained on the document. In this respect, subsequent transactions, such as status, cancellations, followups, etc., will be accomplished on a single line item basis by use of either the DD Form 1348 or message.

(e) When the form is used to requisition items not identified by stock or part numbers, the item descriptions may be written across an entire line or lines under requisition data, without regard to columnar headings. Such data as the quantity, serial number, supplementary address, signal and advice codes will be entered directly below the item descriptions in appropriate blocks. When more than one delivery date is applicate to a single item, block 21 will be left blank and delivery dates reflected on the line(s) directly beneath the desired items.

(f) The form may be completed in as many copies as required. However, only the original copy will be submitted to supply sources as a requisition.

H–203 *Issue priority designators on requisitions for Government-furnished material.* (a) The contracting Military Department may issue specific instructions to contractors on the use of priority designators when contractor activities are operated in direct support of:

(i) Military force activities, or

(ii) Programs which have been given approval for top national priority.

(b) When contractors, other than those qualifying under (a) above, requisition Government-furnished material from the Department of Defense distribution system, the following priority designators and criteria shall be used on contractor requisitions:

(i) Priority Designator 07 shall be used when an item is required to alleviate an existing work stoppage.

(ii) Priority Designator 09 shall be used when nonavailability of the item required will impair the contractor's ability to meet contract commitments.

(iii) Priority Designator 14 shall be used when an item is required for support of contract performance on a more urgent basis than stock replenishment.

(iv) Priority Designator 19 shall be used when an item is required for stock replenishment or to establish initial operating stocks.

H–204 *Time-frames.* Time-frames have been established for furnishing supply status and for delivery of material as follows:

(i) Supply status—

Priority designator	*Dispatched after receipt of requisition*
1 through 08	24 hours
09 through 20	2 working days

(ii) Delivery of material—

Priority designator	From requisition date to receipt of material by consignee	
	CONUS	Overseas
1 through 03	120 hours [1]	168 hours. [1]
04 through 08	8 days	15 days.
09 through 15	20 days	45 days.
16 through 20	30 days	60 days.

[1] Based on 24-hour work schedule 7 days per week. Time in days includes Saturdays, Sundays, and holidays.

H–205 *Status data.*

H–205.1 *General.* The MILSTRIP system requires that processing elements of the military supply activity show action taken or being taken on certain requisitions. The term for this information is known as "status data" and the specific types of such data are categorized as exception status, 100 percent supply status, and shipment status.

H–205.2 *Exception status.* Exception status is any of the following nonpositive supply availability decisions, alone or in combination:

(i) Back order,

(ii) Procurement for direct delivery,

(iii) Partial issue or partial other action,

(iv) Substitution,

(v) Change of unit of issue,

(vi) Requisition returned for specific cause,

(vii) Passing order,

(viii) Referral order,

(ix) Cancellation acknowledgment, and

(x) Any circumstance which predicts that issue may not be made within the number of days established for the priority assigned.

H–205.3 *100 percent supply status.* The 100 percent supply status is each and every distribution decision, positive or negative.

H–205.4 *Shipment status.* Shipment status is advice of estimated or actual shipment dates including the transportation control number or Government bill of lading number, mode of shipment, and port of embarkation for shipments destined overseas.

H–206 *Followups.* The MILSTRIP system provides for followups. A followup may be submitted by the requisitioned or supplementary addressee provided that status data is not on hand and the time-frame for receiving such data has elapsed, or the time-frame for the receipt of material has elapsed.

H–207 *Media and transmission of MILSTRIP documents.* The MILSTRIP forms and procedures are designed for both manual and mechanized application, transmission, and processing of requisitions and follow-on transactions. Methods of submission and transmission, in order of preference, are as follows:

(i) Transceiver;

(ii) Air or regular mail, with the container conspicuously marked "MILSTRIP";

(iii) Courier;

(iv) Administrative electrical message; and

(v) Telephone or radio.

H–208 *Required Delivery Date.* (a) Normally, a required delivery date will not be placed on a requisition. However, if the prescribed time-frames for the priority assigned does not meet the "actual need date", a required delivery date may be placed on the requisition indicating that the material must be delivered by that specific date to preclude work stoppage.

(b) On Defense Supply Agency bailment type contracts, the required delivery date indicates the date on which the Government-furnished material must be ready for pickup at the Military Department distribution point by a carrier (contractor's truck or commercial carrier designated by the contractor).

H–209 *Codes.*

H–209.1 *General.* Part 6 provides the codes and other data normally required by contractors on a repetitive basis to:

(i) Requisition and turn-in Government-furnished material,

(ii) Prepare cancellation of requisitions,

(iii) Initiate followups on requisitions, and

(iv) Interpret status.

Infrequently used codes and codes of limited application will, if required, be provided in the contract or otherwise furnished to the contractor by the procuring Military Department or Government Agency.

H–209.2 *Routing identifier.* The name, address and routing identifier code of the supply and distribution organization responsible for MILSTRIP supply support will be provided in the contract or otherwise furnished to the contractor by the procuring Military Department or Government Agency. When more than one supply and distribution organization is responsible for MILSTRIP supply support, the name, address, routing identifier code, and logistic responsibility assigned each supply and distribution organization will be provided in the contract or otherwise furnished to the contractor by the procuring Military Department or Government Agency.

H–210 *Addresses.* Contractors shall use their activity address codes, as assigned by the Military Departments, on MILSTRIP documents. These identifying codes are published for the Departments in the DOD Activity Address Directory (AR–725–60–1; DSAH 4140.1 (for the Department of the Navy and the Defense Supply Agency; AFM 75–6; MCO P4420.2D; CG 364).

Part 3—Requisitions, Followups, Cancellations and Requisition Modifiers

H–300 *Scope of part.* This part sets forth uniform instructions for the preparation, submission, and distribution of MILSTRIP documents for use as requisitions, followups, cancellations, and requisition modifiers.

H–301 *General.* Depending on the mechanized capabilities of the contractor, the means of transmitting the request, and the urgency of need, the requisition may be prepared as a manual requisition on a DD Form 1348, a prepunched requisition on a DD Form 1348m, or as a message-type or telephonic request. Requisitions may be prepared by either the contractor or the Procuring Activity, as specified in the contract.

H–302 *Preparation and utilization of the DOD single line item requisition system document (manual) (DD Form 1348).* See H–202.1.

H–302.1 *Uses.* Contractors not having mechanized capabilities shall utilize DD Form 1348 for the following purposes:

(i) Manual requisitions,

(ii) Manual followups,

(iii) Manual cancellations, and

(iv) Manual requisition modifiers.

H–302.2 *Use of DD Form 1348 as a requisition.* When used as a requisition, DD Form 1348 shall be prepared as follows:

Item	Explanation and instructions
Block A—Send to	Enter "in the clear" the source of supply addressee as indicated by the Military Department.
Block B—Requisition is from	Enter "in the clear" contractor's name and activity address code furnished by the Military Department, and address of the contractor.

NOTE: Block C and heavy black-bordered blocks D through K and columns 67 through 80 in block 23 shall be left blank.

Item	Explanation and instructions
Block 1—Document identifier	Enter one of the following 3-digit document identifier codes:

Required for domestic shipment		*Required for overseas shipment*
AØA	w/PSN	AØ1
AØB	w/Part No.	AØ2
AØC	w/NATO No.	AØ3
AØD	w/Other	AØ4
AØE	w/Written data	AØ5

See H-602.

Block 2—Routing identifier	Enter the 3-digit routing identifier code indicating the source of supply.
Block 3—Media and status code	Enter one of the following codes indicating the type of status required, the activity to receive status, and the communication method by which status is to be transmitted:

(a) Numeric Series:

0 No status to requisitioner or supplementary addressee.
2 Exception status to requisitioner by transceiver.
3 Exception status to requisitioner by mail.
4 Exception status to supplementary addressee by transceiver.
5 Exception status to supplementary addressee by mail.
6 Exception status to requisitioner by message.
7 Exception status to supplementary addressee by message.

(b) Alpha Series:

B 100 percent supply status to requisitioner by transceiver.
C 100 percent supply status to requisitioner by mail.
D 100 percent supply status to supplementary addressee by transceiver.
E 100 percent supply status to supplementary addressee by mail.
F 100 percent supply status to requisitioner by message.
G 100 percent supply status to supplementary addressee by message.
K Exception status plus shipment status to requisitioner by transceiver.
L Exception status plus shipment status to requisitioner by mail.
M Exception status plus shipment status to supplementary addressee by transceiver.
N Exception status plus shipment status to supplementary addressee by mail.
O Exception status plus shipment status to requisitioner by message.
P Exception status plus shipment status to supplementary addressee by message.
S 100 percent supply status plus shipment status to requisitioner by transceiver.
T 100 percent supply status plus shipment status to requisitioner by mail.
U 100 percent supply status plus shipment status to supplementary addressee by transceiver.
V 100 percent supply status plus shipment status to supplementary addressee by mail.
W 100 percent supply status plus shipment status to requisitioner by message.
X 100 percent supply status plus shipment status to supplementary addressee by message.

Item	Explanation and instructions
Blocks 4, 5, and 6—Stock or part number.	In blocks 4 and 5, enter the federal stock number of item requested. Block 6 shall be utilized for additional identification data when required by the Military Department. See H-603.
Block 7—Unit of issue	Enter the two-letter abbreviation as shown in the applicable catalog or stock list; e.g., Ea, Lb, Ft.
Block 8—Quantity	Enter the quantity being requisitioned. If the quantity exceeds 99,999, prepare additional requisitions as required. Zeros shall precede significant numerics.
Blocks 9, 10, 11, and 12—Document number.	Enter the 14-digit number constructed as set forth below (see also H-604).
Block 9—Service	Enter the alphabetic code (For Contractor Use Only) used to identify the military organization. See H-601.
Block 10—Requisitioner	Enter the applicable activity address code of the requisitioner as listed in the DoD Activity Address Directory.
Block 11—Date	Enter the Julian day calendar date (see H-609), i.e., in the first column indicate the last numeric digit of the calendar year (for example, "3" for 1963, "4" for 1964) and in the last three columns indicate the numeric consecutive day of the calendar year (for example, "004" for January 4, "157" for June 6).
Block 12—Serial number	Enter the serial number of the requisition. This number will be assigned by the requisitioner but shall not be duplicated on any one day. See H-604.3(d) for certain limitations in the assignment of the serial number. NOTE: May be used to code contract numbers, if desired.
Block 13—Demand	Enter the appropriate demand code as follows: (a) An "R" shall be used if it is a recurring demand (a demand to replenish materiel utilized on a day-to-day basis). (b) An "N" shall be used if it is a nonrecurring demand (a demand made on a one-time basis). (c) An "O" shall be used if a requisitioning activity is submitting requisitions for substitute items which are acceptable in lieu of previously requisitioned, but delayed, items.

Item	Explanation and instructions
Blocks 14 and 15—Supplementary address.	When material is to be "shipped to" or "billed to" an activity other than the requisitioner, the activity address code identifying the "ship to" or "bill to" activity shall be entered. See H–608.
Block 16—Signal	Enter one of the following codes which indicate the "ship to" or "bill to" activity when applicable:

Ship to requisitioner	*Bill to*
A	Blocks 9 and 10.
B	Blocks 14 and 15.
C	Bill to activity designated by block 17. However, if the third digit of the document identifier is "5" or "E", the Remarks block may indicate other billing information. See H–606.
D	No billing required (free issue).

Ship to supplementary address	*Bill to*
J	Blocks 9 and 10.
K	Blocks 14 and 15.
L	Bill to activity designated by block 17. However, if the third digit of the document identifier is "5" or "E," the Remarks block may indicate other billing information. See H–606.
M	No billing required (free issue).

See H–605.

NOTE: Codes A, B, C, J, K, and L will be provided by the contract or otherwise furnished by the Military Department to the contractor.

Block 17—Fund code	Enter fund code furnished by the Military Department, if applicable. See H–606.
Block 18—Distribution	Leave blank, unless directed otherwise by the Military Department.
Block 19—Project	Leave blank, unless directed otherwise by the Military Department.
Block 20—Priority	Enter appropriate issue priority designator in accordance with H–203.
Block 21—Required delivery date	Will normally be left blank. The date will be entered only when conditions meet the requirements set forth in H–208.
Block 22—Advice	Enter the applicable advice code to convey instructions to the supply source, if necessary. When code is not required, leave blank. See H–607.
Block 23:	
Columns 67–71	Leave blank.
Column 72	Enter the appropriate management code as prescribed by the contracting Military Department or Agency; otherwise, leave blank. See H–615.
Columns 73–80	Leave blank.

Item	Explanation and instructions
Blocks L through V—Remarks	In the Remarks block, enter any additional information not provided for in the requisition format. When data are entered in the Remarks field, the third digit of the document identifier code entered in block 1 must be an "E" or "5", as appropriate. When required by the Military Department, the contract number shall be entered in the "Remarks" block.

H–302.3 *Use of DD Form 1348 as a followup.* (a) When used as a followup and when no status has been received from the supply source, DD Form 1348 shall be prepared as follows:

Item	Explanation and instructions
Block 1—Document identifier	Followups will be initiated by the requisitioner (Code AF1) or the supplementary addressee (Code AF2).
All other blocks	Enter duplicate entries from the original requisition.

(b) When used as a followup and status has been received from the supply source, DD Form 1348 shall be prepared as follows:

Item	Explanation and Instructions
Block A—Send to	Enter "in the clear" address of the last known source of supply as indicated in the latest status document. When this block is used, block 2 may be left blank.
Block 1—Document identifier	Enter the code AF1 or AF2.
Block 2—Routing identifier	Enter the code identifying the last known supply source indicated on the supply status card. When this block is used, block A may be left blank.
All other blocks	Duplicate the entries in the last status card received.

H–302.4 *Use of DD Form 1348 as a cancellation.* A cancellation, in whole or in part, shall be initiated only by the requisitioner or the supplementary addressee. When cancellation is necessary, DD Form 1348 shall be prepared as follows:

Item	Explanation and instructions
Block A—Send to	Enter "in the clear" address shown on the original requisition or the "in the clear" address of the last known source as indicated on the latest status document.
Block B—Requisition is from	Enter "in the clear" address of the activity requesting cancellation.
Block 1—Document identifier	Cancellation will be initiated by the originator (Code AC1) or the supplementary addressee (Code AC2).
Block 2—Routing identifier	Enter the appropriate code for the last known source of supply.
Blocks 4, 5, and 6—Stock number	Enter stock number shown on requisition or supply status card.
Block 7—Unit of issue	Enter the unit of issue as shown on the requisition or status card.
Block 8—Quantity	Enter the quantity for which cancellation is requested.
Block 13—Demand	Enter the suffix code as shown in the supply status card, when applicable. Otherwise, enter demand code from requisition.
All other blocks	Enter identical information in other blocks as shown on original requisition or supply status card.

H-302.5 *Use of DD Form 1348 as a requisition modifier.* See H-307.

H-302.6 *Submission to the supply source.* Methods of submission of DD Form 1348 to the supply source are as follows:

(i) Air or regular mail, with the container conspicuously marked "MILSTRIP";

(ii) Courier;

(iii) Administrative electrical message; and

(iv) Telephone or radio.

H-302.7 *Confirmation copies.* When requisitions are relayed by telephone, radio, or electrical message, confirmation copies are not required and shall not be forwarded.

H-302.8 *Distribution of DD Form 1348.*

(a) When used as a requisition, copies of DD Form 1348 shall be distributed as follows:

(i) Original—to supply source, and

(ii) Remaining copies—for contractor use.

(b) When used as a followup or a cancellation, copies of DD Form 1348 shall be distributed as follows:

(i) Original—to supply source, except when status has been received indicating that another activity is responsible for processing the demand (In such case, submit to activity so designated on the status card.), and

(ii) Remaining copies—for contractor use.

H-3.3 *Preparation and transmission of DOD single line item requisition system document (mechanical) (DD Form 1348m).*

H-303.1 *Use of DD Form 1348m as a requisition.* (a) Contractors with mechanized capabilities shall prepare a punched DOD single line item requisition system document (mechanical) (DD Form 1348m) for submission to the supply source by transceiver. However, air or regular mail, courier, or electrical media may be utilized for transmission of the punched card. When a requisition is prepared by using the DD Form 1348m, duplicates may be prepared for internal use by the requisitioning activity, as required.

(b) The DD Form 1348m (see H-202.2), prepared as a requisition, shall contain the required data punched in the appropriate card columns, as follows:

Card columns	Field/Legend	Explanation and instructions
1-3	Document identifier	Enter one of the following appropriate document identifier codes:

Required for domestic shipment		*Required for overseas shipment*
A8A	w/FSN	A81
A8B	w/Part No.	A82
A8C	w/NATO No.	A83
A8D	w/Other	A84
A8E	w/Written data	A85

4-6	Routing identifier	Enter code indicating supply source to which requisition is to be submitted.
7	Media and status	Enter one of the following codes indicating the type of status desired, the activity to receive status and the communication method by which status is to be transmitted:

(a) Numeric Series:
- 0 No status to requisitioner or supplementary addressee.
- 2 Exception status to requisitioner by transceiver.
- 3 Exception status to requisitioner by mail.
- 4 Exception status to supplementary addressee by transceiver.
- 5 Exception status to supplementary addressee by mail.
- 6 Exception status to requisitioner by message.
- 7 Exception status to supplementary addressee by message.

(b) Alpha Series:
- B 100 percent supply status to requisitioner by transceiver.
- C 100 percent supply status to requisitioner by mail.
- D 100 percent supply status to supplementary addressee by transceiver.
- E 100 percent supply status to supplementary addressee by mail.
- F 100 percent supply status to requisitioner by message.
- G 100 percent supply status to supplementary addressee by message.
- K Exception status plus shipment status to requisitioner by transceiver.
- L Exception status plus shipment status to requisitioner by mail.
- M Exception status plus shipment status to supplementary addressee by transceiver.
- N Exception status plus shipment status to supplementary addressee by mail.
- O Exception status plus shipment status to requisitioner by message.
- P Exception status plus shipment status to supplementary addressee by message.
- S 100 percent supply status plus shipment status to requisitioner by transceiver.
- T 100 percent supply status plus shipment status to requisitioner by mail.
- U 100 percent supply status plus shipment status to supplementary addressee by transceiver.
- V 100 percent supply status plus shipment status to supplementary addressee by mail.
- W 100 percent supply status plus shipment status to requisitioner by message.
- X 100 percent supply status plus shipment status to supplementary addressee by message.

8-22	Stock or part number	See H-607. Enter stock or part number with additional identification data, when applicable. See H-603.
23-24	Unit of issue	Enter the two-letter abbreviation as shown in the applicable catalog or stock list; e.g., Ea, Lb, Ft.
25-29	Quantity	Enter quantity being requisitioned. If the quantity exceeds 99,999, prepare additional requisitions as required. Zeros shall precede significant numerics.
30-43	Document number	Enter the 14-digit number constructed as set forth below (see also H-604).
30	Service	Enter the alphabetical code (For Contractor Use Only) used to identify the military service. See H-601.
31-35	Requisitioner	Enter the applicable activity address code of the requisitioner as listed in the DoD Activity Address Directory.
36-39	Date	Enter the Julian day calendar date (see H-609, i.e., in the first column indicate the last numeric digit of the calendar year (for example, "3" for 1963, "4" for 1964), and in the last three columns indicate the numeric consecutive day of the calendar year (for example, "004" for 4 January, "157" for 6 June).
40-43	Serial number	Enter the serial number of the requisition. This number will be assigned by the requisitioner but shall not be duplicated on any one day. See H-604.3(d) for certain limitations in the assignment of the serial number. NOTE: May be used to code contract numbers, if desired.
44	Demand	Enter the appropriate demand code as follows: (a) An "R" shall be used if it is a recurring demand (a demand to replenish materiel utilized on a day-to-day basis). (b) An "N" shall be used if it is a nonrecurring demand (a demand made on a "one-time" basis). (c) An "O" shall be used if a requisitioning activity is submitting requisitions for substitute items which are acceptable in lieu of previously requisitioned, but delayed items.
45-50	Supplementary address	When material is to be "shipped to" or "billed to" an activity other than the requisitioner, the service code and the activity address code identifying the "ship to" or "bill to" activity shall be entered. See H-608.
51	Signal	Enter one of the following codes which indicate the "ship to" and "bill to" activity.

Ship to requisitioner	*Bill to*
A	Requisitioner.
B	Supplementary address.
C	Bill to activity designated by column 52. However, if the third digit of the identifier is "5" or "E", the Remarks block may indicate other billing information. See H-606.
D	No billing required.

Ship to supplementary address	*Bill to*
J	Requisitioner.
K	Supplementary address.
L	Bill to activity designated by column 52. However, if the third digit of the document identifier is "5" or "E", the Remarks block may indicate other billing information. See H-606.
M	No billing required. See H-605.

NOTE: Codes A, B, C, J, K, and L will be provided by the contract or otherwise furnished by the Military Department to the Contractor.

52-53	Fund	Enter fund code furnished by the Military Department, as applicable. See H-606.
54-56	Distribution	Leave blank, unless directed otherwise by the Military Department.
57-59	Project	Leave blank, unless directed otherwise by the Military Department.
60-61	Priority	Enter appropriate issue priority designator in accordance with H-208.
62-64	Required delivery date	Will normally be left blank. The date shall be entered only when conditions meet the requirements set forth in H-208.
65-66	Advice	Enter applicable advice code to convey instructions to the supply source, if necessary. When code is not required, leave blank. See H-607.

Card columns	Field/Legend	Explanation and instructions
67-71	Blank	Leave blank.
72	Management	Enter the appropriate management code as prescribed by the contracting Military Department or Agency; otherwise, leave blank. See H-615.
73-80	Blank	Leave blank.

H-303.2 *Use of DD Form 1348m as a followup.* (a) Followups may be submitted only by the requisitioner or the supplementary addressee. Prior to submission, the contractor following up will insure that status data are not on hand and that the time-frame for receipt of status has elapsed or that the time-frame for receipt of the material has elapsed.

(b) Followups for requisitions with Priority Designators 09 through 20 may be submitted only after expiration of at least 10 days from the date of requisition or previous followup submission date. Followups for requisitions with Priority Designators 01 through 08 may be submitted only after expiration of 48 hours from the requisition submission date or previous followup submission date. Submission of followups under these criteria will be accomplished only after activities insure that:

(i) Status information has been requested under the provisions of the Media and Status Code;

(ii) Status data are not on hand to indicate a delay in receipt of material beyond the Priority Delivery Date or Required Delivery Date; or

(iii) The order and shipping time standards for receipt of material have elapsed.

Activities following up on overseas requisitions, prior to submission of followups will insure that 48 hours have elapsed since the Required Delivery Date or the Priority Delivery Date expressed on the requisition, or that 48 hours have elapsed since expiration of the established time frame for receipt of status.

(c) Followups shall be submitted to the point to which the requisition was submitted, except when supply status has been received indicating that another supply activity is responsible for processing the demand. In the latter case, followup shall be to the activity indicated as currently processing the requisition (i.e., "last known source of supply", which is the distribution point holding the demand for decision to issue the material). Transmission of followups will normally be by the same method employed for submission of requisitions.

(d) When used as a followup and when no status has been received from the supply source, the following entries shall be punched in the DD Form 1348m:

Card columns	Data	Explanation and instructions
1-3	Document identifier	Enter the code AF1 or AF2, as applicable to a followup.
4-66	All other fields of data	Duplicate entries from the original requisition.

(e) When used as a followup and when status has been received from a supply source, the following entries shall be punched in the DD Form 1348m:

Card columns	Data	Explanation and instructions
1-3	Document identifier	Enter the code AF1 or AF2 as applicable to a followup.
4-6	Routing identifier	Enter code identifying the last known supply source indicated on the supply status card in columns 67-69.
7-80	All other fields of data	Duplicate the entries from the last status card received.

H-303.3 *Use of DD Form 1348m as a cancellation.* (a) A cancellation, in whole or in part, shall be initiated only by the requisitioner or the supplementary addressee. Transmission of cancellation will normally be by the same method employed for submission of requisitions.

(b) Preparation of the DD Form 1348m for use as a cancellation shall be as follows:

Card columns	Field/Legend	Exaplnation and instructions
1-3	Document identifier	Enter code AC1 or AC2, as applicable to a cancellation.
4-6	Routing identifier	Enter code for last known source of supply.
7	Media and status	Enter code shown on requisition.
8-22	Stock number	Enter stock or part number as shown on requisition or on supply status card when such status has been received.
23-24	Unit of issue	Enter unit of issue as shown on requisition or status card.
25-29	Quantity	Enter quantity for which cancellation is requested.
30-43	Document number	Enter the document number of the requisition for which cancellation is requested.
44	Suffix or demand	Enter suffix code as shown in supply status card when applicable; otherwise, enter demand code from requisition.
45-80	All other fields	The data in the requisition (columns 45-66) or supply status card (columns 45-80) shall be included in the cancellation.

H-303.4 *Use of DD Form 1348m as a requisition modifier.* See H-307.

H-304 *Preparation and use of messages.*

H-304.1 *General.* Requisitions, followups, and cancellations may be transmitted by messages when time is of the essence and other means are not considered appropriate.

H-304.2 *Limitations.* When messages are used for any of the foregoing purposes, each transmission shall be limited to a maximum of seven transactions. When explanatory comments are required, the appropriate entry shall be entered on the line immediately following each transaction. All transactions on a single message must be intended for the same elements within the recipient processing point; i.e., the routing identifier codes must be identical on all transactions.

H-304.3 *Use of messages as requisitions.* The first line in the body of the message shall contain the words "MILSTRIP Requisition(s)". Thereafter, each transaction shall be numbered commencing with number 1 and the first 66 columns of data, except that dividing slashes (/) shall be inserted, and divided exactly as shown in H-202.4. Each transaction shall consist of 18 separate field lengths of data.

H-304.4 *Use of messages as cancellations, followups, and requisition modifiers.* Cancellations, followups, and requisition modifiers by message shall be in the same format as that shown for a sample requisition, except that the first line in the body of the message shall be shown as "MILSTRIP Cancellation(s)," "MILSTRIP Followup(s)," or "MILSTRIP Requisition Modifier(s)," as appropriate. Data shown on cancellations and followups, except the first element of data which will show the correct document identifier, shall be a repeat of the original requisition. An entry in a requisition modifier document may differ from that in the original requisition only to reflect an increase or decrease in the Priority Date or Required Delivery Date. When the priority of an item ordered changes but the quantity requisitioned is different from the quantity previously requisitioned, a new requisition shall be submitted for the quantity required under the new priority.

H-304.5 *Confirmation copies.* When requisitions are relayed by electrical message, confirmation copies are not required by the supply source and shall not be forwarded.

H-305 *Telephone and radio requisitions.*

H-305.1 *General.* Under exceptional circumstances when other methods of transmission are not adequate, requisitions may be submitted by telephone or radio. When considered necessary, requisitions will be prepared on DD Form 1348 or DD Form 1348m, as appropriate, and read to the supply source by telephone or radio in exact columnar alignment.

H-305.2 *Confirmation copies.* When requisitions are relayed by telephone or radio, confirmation copies are not required by the supply source and shall not be forwarded.

H-306 *Formats for status, replies to followups, and replies to cancellation requests.* The formats used by military processing elements (i.e., depots, inventory control points, inventory managers, etc.) in furnishing status and in replying to followups and cancellation requests are as follows:

(i) Exception status, see H-611;

(ii) 100 percent supply status, see H-611;

(iii) Shipment status, see H-612;

(iv) Reply to followup, see H-613; and

(v) Reply to cancellation request, see H-614.

H-307 *Submission and use of requisition modifier documents.* (a) A requisition modifier document may be initiated by the requisitioner or supplementary addressee to modify previously submitted requisitions when the required dates for previously requisitioned materiel must be changed to prevent work stoppage at industrial/production activities engaged in repair, modification, or manufacture of primary weapons, equipment, and supplies.

(b) The activity initiating a requisition modifier document will be responsible for furnishing notification of such action to other interested activities, such as the requisitioner, and the supplementary addressee. The requisition modifier document will be transmitted to the last known source of supply.

(c) The requisition modifier document will be prepared by originating activities completing all prescribed data element entries for requisitions. An entry in a requisition modifier document may differ from that in the original requisition only to reflect

an upgrading or downgrading in the Priority Designator or Required Delivery Date. When the priorty of an item changes, but the quantity required is different than the quantity previously requisitioned, a new requisition will be submitted for the quantity required under the new priority.

(d) Supply sources will process requisition modifier documents to provide for modification of requisitions on back-order or modification of requisitions for which materiel release orders or DD Forms 1348–1 have not been processed to storage activities. Requisitions which have been submitted to procurement sources for direct delivery of required items at the time of receipt of requisition modifier documents are not required to be modified. These requisitions will be considered as requisitions for which materiel release orders or DD Forms 1348–1 have been processed at the time of receipt of requisition modifier documents. When requisition modifier documents are processed, the original requisitions identified by document numbers of the modifier documents, will be suspended from processing. Should the original requisitions be held on back-order, upon receipt of the requisition modifier document, the issue priority designators and/or required delivery dates will be amended in accordance with the requisition modifier documents. Procurement sources will be advised of the issue priority designator and/or required delivery date amendments. Modification of materiel release orders or DD Forms 1348–1 is at the discretion of the Military Services and Agencies. Supply sources will furnish requiring activities with the latest supply or shipment status information when modification of materiel release orders or DD Forms 1348–1 will not be accomplished. In those instances where the Services or Agencies elect to modify materiel release orders or DD Forms 1348–1, a materiel release order or DD Form 1348–1 modifier document will be prepared and transmitted to the applicable storage activity. The materiel release order or DD Form 1348–1 modifier documents will be prepared as a result of processing requisition modifier documents as new requisitions.

(e) Storage activities, upon receipt of materiel release orders or DD Form 1348–1 modifier documents, will cancel the original materiel release order or DD Form 1348–1. Identification of these latter documents will be accomplished by matching the document numbers of modifier documents with document numbers of materiel release orders or DD Forms 1348–1 having been previously received. The modifier documents will be processed in the normal manner prescribed for materiel release orders or DD Forms 1348–1.

(f) In those instances where requisition modifiers or materiel release order modifiers are received at requisitioning processing points and storage activities and cancellation action cannot be taken against the original requisition or MRO, due to no record of the requisition/MRO, the following actions will be taken:

(i) Requisition processing points will process the requisition modifier document as a new requisition.

(ii) Storage activities will process the materiel release order modifier document as a new materiel release order.

(g) When storage activities receive materiel release order or DD Form 1348–1 modifier documents and shipment action applicable to the original materiel release order or DD Form 1348–1 has been accomplished, no action will be taken relative to the modifier document.

(h) Document Identifier Codes to be used on requisition modifier documents are listed in H–602.2.

(i) The General Services Administration is exempted from the requisition modifier procedures.

PART 4—RELEASE/RECEIPT DOCUMENTATION

H–400 *Scope of part.* This part sets forth instructions for the preparation and use of the MILSTRIP documentation prepared by the military supply activity to accompany Government-furnished material to contractors.

H–401 *General.* All contractor receipts of Government-furnished material under MILSTRIP will be accompanied by a Release/Receipt Document (DD 1348–1) (see H–202.3) prepared by the military supply activity regardless of whether shipment is in response to a contractor's requisition or is the result of action by a military supply activity. The military supply activity will supply a minimum of three copies of DD Form 1348–1 with the material. Additionally, if an advance copy of a bill of lading is received, a copy of the DD Form 1348–1 will be attached.

H–402 *Responsibilities.* On Military Department originated requisitions for Government-furnished material, it is the responsibility of the originating Military Department to insure that the contract number is referenced on the documentation accompanying the shipment; i.e., on the DD Form 1348–1.

H–403 *Exceptions in preparation.* (a) Shipment Status Cards prepared by Navy activities may not contain the computed requisition submission time in card columns 52–53, except when Shipment Status Cards are prepared from Materiel Release Orders received from Defense Supply Centers.

(b) Release/Receipt Document (DD 1348–1) resulting from Materiel Release Orders prepared by DSA activities will perpetuate the Fund Code by placing this code in columns 21 and 22 of the document. On intra-Navy transactions the Fund Code will be entered in card columns 52–53 of the form. Receiving activities will refer to Routing Identifier Code (From) in columns 67–69 to determine if the Fund Code or Submission Time is entered in columns 52–53 of the DD 1348–1.

H–404 *Data entries.*

H–404.1 *Minimum data entries.* The minimum data entries shown on the DD Form 1348–1 shall be as follows:

Columns	Item	Identification or source of data
1–3	Document Identifier	Identifies the source document used to prepare DD Form 1348–1.
4–6	Routing identifier	The routing identifier of the shipping activity.
7	Media and status code	The code originally assigned to the requisition document.
8–22	Stock or part number	The stock or part number of the item shipped. See H–403.
23–24	Unit of issue	The unit of issue of the stock or part number being shipped.
25–29	Quantity	The quantity being shipped.
30–43	Document number	The document number originally assigned to the requisition.
44	Suffix	Blank, if the document represents shipment of the total quantity requisitioned; otherwise an appropriate character is assigned to indicate a partial quantity shipped.
45–50	Supplementary address	The code as shown on the original requisition.
51	Signal	
52–53	Submission time	The computed elapsed number of days from the date of the requisition until receipt by the supply distribution system. See H–403.
54–56	Distribution	The code as shown on the original requisition.
57–59	Project code	
60–61	Priority code	
62–64	Required delivery date	The Julian day calendar date assigned to the original requisition or other source document.
67–69	Routing identifier code	The routing identifier code (if any) appearing in columns 67–69 of the source document. Identifies the activity directing release of the material.
70–73	Management codes	Distribution system management codes as prescribed by the contracting Military Department or Agency. See H–615.
74–80	Unit price	The unit price of the item being released.

H–404.2 *Other data.* In order to accommodate the various distribution systems and equipment, DD Form 1348–1 provides blocks labeled "A" through "Y" for entry of other data. The use of these blocks is optional; but, when used, they shall contain the following:

Block	*Data which may be entered*
A	The shipping point identified by name and/or code.
B	The consignee by name and address and/or code listed in DOD Activity Address Directory.
C	Repeat of data entered in the supplementary address field (columns 45–50).
D	The project and/or code, if any.
E	The extended value of the transaction.
F	The location from which materiel is to be selected.
G	Coded cargo data.
H	The number of issue units in a package.
I	The unit weight applicable to the unit of issue.
J	The unit cube applicable to the unit of issue.
K	Uniform freight classification.
L	National motor freight classification.
M	Percentage of first class.
N	For internal use.
O	Date of document preparation.
P	Materiel condition code.
Q	For service use.
R	For internal use.
S	For internal use.
T	Stock or part number of item originally requested, if other than item released.
U	Freight classification nomenclature.
V	For internal use.
W	For internal use.
X	Item nomenclature.
Y	For internal use.
1–10	Shippers and receivers use.
AA–FF	Provided for any special notes or instructions deemed appropriate.
GG	Provided for any special notes or instructions deemed appropriate. For Air Force Government-furnished material, the Expendability-Recoverability-Repair Code (ERRC) shall be entered in block GG by the shipping activity.
11–15	Self-explanatory.

H–405 *Document distribution.* Distribution of the individual copies of DOD Single Line Item Release/Receipt Document (DD Form 1348–1) shall be as follows:

(i) Copy 1 is retained by the distribution point (shipper);

(ii) Copies 2, 3, and 4—to consignee with materiel;

(iii) Copy 5—to consignee attached to outside of No. 1 shipping container after use for picking, packing, and item identification;

(iv) Copy 6*—to consignee with advance copy of the bill of lading;

(v) Copy 7—transportation copy retained by the distribution point (shipper).

PART 5—RETURN OF GOVERNMENT-FURNISHED MATERIAL (GFM)

H-500 *Scope of part.* This part sets forth instructions for the preparation and use of the MILSTRIP document for the return of Government-furnished material.

*When shipment is accomplished by a method not requiring backup documentation to a movement document (i.e., parcel post, Government truck, etc.), this copy will be destroyed by the shipping point.

H-501 *General.* (a) Shipping Document for GFM Turn-In (DD Form 1483) is authorized for use by a contractor in returning Government-furnished material to the cognizant Military Department.

(b) Serviceable and unserviceable turn-ins shall be documented separately. The type of turn-in shall be indicated by the insertion of an "X" in the "Serviceable" or "Unserviceable" box on the form, as appropriate.

(c) Department of Defense forms, other than the DD Form 1483, used for turn-in shall contain as a minimum the data prescribed in H-502.

H-502 *Preparation of DD Form 1483.* The following entries on DD Form 1483 are required:

Field/legend	Card columns or blocks	Explanation and instructions
Contract number	A	Enter full contract number.
Ship to	B	Enter name and address of storage activity or depot designated by the contracting officer to receive the Government-furnished material.
Mark for	C	As directed by the contracting officer.
Ship from	D	Enter name and address of shipping contractor as listed in DOD Activity Address Directory.
Office administering contract	E	Enter name and address of activity administering the contract.
Document identifier	1-3	Leave blank.
Routing identifier (stock control activity or inventory control point).	4-6	Leave blank.
	7	Leave blank.
Document number (basic)	30-39	See H-604.
Service code	30	Enter procuring service code. See H-601.
Shipper	31-35	Enter activity address code of contractor from DOD Activity Address Directory.
Date	36-39	Enter last digit of calendar year followed by Julian day calendar date on which document prepared. See H-609.
	44	Leave blank.
	45-50	Leave blank.
	51	Leave blank.
Fund	52-53	As directed by contracting officer.
	54-56	Leave blank.
Project	57-59	As directed by contracting officer.
Priority	60-61	As directed by contracting officer.
Date received	62-64	Leave blank.
	65-66	Leave blank.
Routing identifier (storage activity or depot).	67-71	Leave blank.
Management Code	72	Enter the appropriate management code as prescribed by the contracting Military Department or Agency; otherwise, leave blank. See H-615.
	73	Leave blank.
	74-80	Leave blank.
Stock number	8-22	Enter stock number in accordance with H-603.1 through H-603.4.
Unit of issue	23-24	Enter appropriate unit of issue as indicated on document on which originally received.
Quantity shipped	F	Enter quantity shipped.
Quantity received	25-29	Leave blank.
Serial number [1]	40-43	For Air Force Contractors Only. Enter serial number in sequence from the block allocated by the property administrator. The serial number shall not be duplicated on any one day. For All Other Contractors. Enter serial number beginning with 0001 each day and continue in numerical sequence. The serial number shall not be duplicated on any day.
Unit price	G	As directed by contracting officer.
Condition	H	Leave blank.
Remarks	I	Enter, as applicable, manufacturers' code and part number, item description or publication reference, stock number over 16 digits as described in H-603.3 (c) and (d) and H-603.4.
Date shipped	J	Enter date released to carrier.
Mode of shipment	K	Enter appropriate code from H-610.
Carrier	L	Enter name of carrier.
Bill of lading number	M	Enter bill of lading number, if shipped by commercial carrier. Enter transportation control number if shipped by military truck, LOGAIR, or QUICKTRANS.
Number of containers	N	Enter total number of containers.
Recap of shipment	O	For use of shipping contractor as required.
Receipt	P	Leave blank.

[1] Serial number of combination with document number (Basic), columns 30-39, forms complete document number for each line item.

H-503 *Distribution of DD Form 1483.* Distribution of the individual copies of DD Form 1483 shall be as follows:

(i) Copies 1, 2, and 3—to the activity designated in block B, Ship To, with the material;

(ii) Copy 4 [2]—to the activity designated in block B, Ship To, with advance copy of bill of lading;

(iii) Copies 5 and 6—to the activity entered in block E, Office Administering Contract (however, when the activity in block E is a Defense Contract Administration Services Region, copies 5 and 6 will be destroyed by the shipping point);

(iv) Copy 7—packing list; and

(v) Other copies—as required for internal use by shipping contractor.

H-504 *Continuation sheets.* When continuation sheets are necessary, the following minimum entries are required on the second and all succeeding pages of DD Form 1483:

(i) Block A—Contract Number,

(ii) Page of pages,

(iii) Block D—Ship From,

(iv) Block B—Ship To,

(v) Block C—Mark For (if applicable), and

(vi) Block E—Office Administering Contract.

H-505 *Reproduction of DD Form 1483.* Contractors are authorized to use ditto, hectograph, multilith, or other reproduction processes in documenting turn-ins of Government-furnished material.

PART 6—CODES AND OTHER DATA

H-600 *Scope of Part.* This part sets forth the codes and other miscellaneous data and instructions for their use by contractors in the preparation and interpretation of MILSTRIP documents.

H-601 *Service Assignment Codes (Blocks 9 and 14—Manual) (Columns 30 and 45—Mechanical).* Service assignment codes are designed to accommodate service identity and use of specific fields on columns without duplication by other services. Service assignment codes are as follows:

Code	Column use		Service
	30	45	
C	X	X	Army (For Contractor Use Only).
Q	X	X	Navy (For Contractor Use Only) (Contractors not listed in DoDAAD).
L	X	X	Marine Corps (For Contractor Use Only).
E	X	X	Air Force (For Contractor Use Only).
U	X	X	Defense Supply Center (For Contractor Use Only).
N	X	X	Navy (For Contractor Use) (Contractors listed in DoDAAD).

H-602 *Document Identifier Codes (Block 1—Manual) (Columns 1, 2, and 3—Mechanical).*

H-602.1 *General.* The document identifier code provides a means of identifying a given product (i.e., requisition, cancellation, followup, reply to followup, etc.) to the system to which it pertains and further identifies such data as to its intended purpose and usage. This code will furnish personnel with the ability to recognize the data and thence

[2] When shipment is accomplished by a method not requiring backup documentation to a movement (i.e., parcel post, Government truck, etc.), copy 4 may be retained by shipping contractor.

to perform the operation dictated. When used in conjunction with electronic computers, it will enable the equipment to select the appropriate programs and mechanically assimilate and/or react to the data.

H–602.2 *Entry.* The document identifier is a mandatory entry on all requisitions and related products entering the supply distribution systems under MILSTRIP. Document identifier codes are as follows:

Columns 1, 2, 3		
AØ1	Requisition	For overseas shipment with Federal Stock Number (FSN).
AØ2	....do	For overseas shipment with Part Number.
AØ3	....do	For overseas shipment with NATO Stock No.
AØ4	....do	For overseas shipment with other.[2]
AØ5[1]	....do	For overseas shipment with exception data.
AØA	....do	For domestic shipment with FSN.
AØB	....do	For domestic shipment with Part Number.
AØC	....do	For domestic shipment with NATO Stock No.
AØD	....do	For domestic shipment with other.[2]
AØE[1]	....do	For domestic shipment with exception data.
AC1	Cancellation	By requisitioner (cols 30-35).
AC2	....do	By supplementary addressee (cols 45-50).
AF1	Followup	By requisitioner (cols 30-35).
AF2	....do	By supplementary addressee (cols 45-50).
AA1	Reply to followup	For requisitioner (cols 30-35).
AA2	....do	For supplementary addressee (cols 45-50).
AE1	Automatic supply status	For requisitioner (cols 30-35).
AE2	....do	For supplementary addressee (cols 45-50).
AS1	Automatic shipment	For requisitioner (cols 30-35).
AS2	....do	For supplementary addressee (cols 45-50).
AG1	Reply to cancellation request.	To requisitioner (cols 30-35).
AG2	....do	To supplementary addressee (cols 45-50).
AMI	Requisition modifier	For overseas shipment/with FSN.
AM2	....do	For overseas shipment/with Part Number.
AM3	....do	For overseas shipment/with NATO Number.
AM4	....do	For overseas shipment/with other.[2]
AM5	....do	For overseas shipment/with exception data.
AMA	....do	For domestic shipment/with FSN.
AMB	....do	For domestic shipment/with Part Number.
AMC	....do	For domestic shipment/NATO Number.
AMD	....do	For domestic shipment/with other.[2]
AME	....do	For domestic shipment/with exception data.
AR1	Shipment status—reply to followup.	To requisitioner (cols 30-35).
AR2	....do	To supplementary addressee (cols 45-50).
AU1	Reply to cancellation request—shipment status.	To requisitioner (cols 30-35).
AU2	....do	To supplementary addressee (cols 45-50).

[1] Processing activity will, by screening of documents, ascertain whether requisition or passing action contains a Federal Stock Number or other Part Number or NATO Stock Number. If data can be acted upon without need for further passing actions, the digit in column 3 shall be changed to correspond with correct Federal Stock Number, Part Number or NATO Stock Number.

[2] For use when requisition or related document contains other than a Federal Stock Number, Part Number, or NATO Stock Number (*i.e.*, Production Equipment Code (PEC) No., DOD Ammunition Number, etc.).

H–603 *Stock number entries (rules for entry).*

H–603.1 *Federal Stock Number.* (a) When an 11-digit Federal Stock Number is applicable:

(1) The Federal Supply Class (FSC) shall be entered in columns 8 through 11 (block 4—Manual), and

(ii) The Federal Item Identification Number (FIIN) shall be entered in columns 12 through 18 (block 5—Manual).

Example

8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
8	3	2	0	1	2	3	1	2	3	4					

Blank

Military Departments cognizance symbols, stratification codes, fraction symbols, condition codes, etc., are never to be entered in columns 8 through 18.

(b) When codes are required in addition to the Federal Stock Number to properly identify the item and these codes are recognizable to the initial processing inventory manager or depot, the codes shall be entered in columns 19 through 22. If less than four digits, entry shall commence in column 19 and progress to the right (block 6—Manual).

Example

8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
8	3	2	0	1	2	3	1	2	3	4	1	2	3		

Blank

or

8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
1	5	6	0	1	2	3	1	2	3	4	1	A	B	C

H–603.2 *NATO Stock Number.* When a 13-digit NATO Stock Number is applicable:

(i) The NATO Supply Class (FSC) shall be entered in columns 8 through 11 (block 4—Manual),

(ii) The two-digit NATO Country Code shall be entered in columns 12 and 13 (block 5—Manual), and

(iii) The seven-digit NATO Identification Number (FIIN) shall be entered in columns 14 through 20 (blocks 5 and 6—Manual).

Example:

8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
5	3	4	0	0	0	1	2	3	1	2	3	4			

Blank

H–603.3 *Manufacturer's part number.* (a) When a manufacturer's part number is applicable, the manufacturer's identity code (Federal Supply Code for Manufacturers, or other) shall be entered in columns 8 through 12. Entry shall commence in column 8 and progress to the right. Spaces not required shall be left blank.

(b) The manufacturer's part number, if 10 digits or less, shall be entered in columns 13 through 22 progressing from left to right, with unrequired spaces, if any, left blank.

(c) When a manufacturer's part number exceeds 10 digits, the entire manufacturer's code and part number shall be entered in the "Remarks" space and properly identified. The construction of part numbers will conform to the requirements of Federal Manual for Supply Cataloging, M1–6.

(d) If a stock number of manufacturer's part number is not known but a description or publication reference is available to adequately identify the item, and such reference is meaningful to the processing point, the Stock or Part Number Field shall be left blank and the descriptive or reference data shall be entered in the "Remarks" space.

H–603.4 *Other numbers.* When other than a Federal Stock Number, part number, or NATO Stock Number is applicable (i.e., a Production Equipment Code (PEC), DOD Ammunition Number, locally assigned number, etc.), the following rules apply:

(1) If 15 digits or less, it shall commence in column 8 and progress to the right, with unused spaces left blank.

Example:

(Less than 15 digits)

8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
1	2	3	4	5	6	7	8	9	1	2	3			

Blank

(15 digits)

8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
1	2	3	4	5	6	7	8	9	1	2	3	4	5	6

(ii) If 16 digits or more, the entire number shall be entered in the "Remarks" space.

H-603.5 *Additional rules.* Column 3 of the document identifier code (see H-602) is significant to the type of number entered in columns 8 through 22, as follows:

(i) Any requisition containing a Federal Stock Number, irrespective of additional codes in columns 19 through 22, must have a "1" (for overseas shipment) or an "A" (for domestic shipment) entered therein unless additional data is contained in the "Remarks" space;

(ii) Any requisition containing a part number must contain a "2" or "B" unless additional data is entered in the "Remarks" space;

(iii) Any requisition containing a NATO Stock Number must contain a "3" or "C" unless additional data is entered in the "Remarks" space; and

(iv) Any requisition containing a Production Equipment Code (PEC), DOD Ammunition Number, or locally assigned number, etc., must contain a "4" or "D" unless additional data is entered in the "Remarks" space.

When additional data is entered in the "Remarks" space, regardless of the content of any columns of the requisition (including columns 8 through 22), column 3 must contain a "5" or "E" and the requisition must not be transceived.

H-604 *Document number entries.*

H-604.1 *General.* These instructions for document number entries are applicable to both requisitions and turn-ins for:

(i) Blocks 9 through 12—manual requisition (DD Form 1348), and

(ii) Columns 30 through 43—mechanized requisitions (DD Form 1348m) and the Shipping Document for GFM Turn-In (DD Form 1483).

H-604.2 *Composition.* The document number is a nonduplicative number throughout the MILSTRIP system and is constructed of four basic elements as follows:

(i) Service (block 9 or column 30),

(ii) Requisitioner/shipping contractor (block 10 or columns 31 through 35),

(iii) Julian date (block 11 or columns 36 through 39), and

(iv) Serial number (block 12 or columns 40 through 43).

Example:

Service — Julian Date

30	31	32	33	34	35	36	37	38	39	40	41	42	43
	Rqner/Shipping Contractor									Serial Number			

H-604.3 *Entries.*

(a) The entry in block 9 or column 30 (service) always shall be the appropriate character from H-601 that indicates the service or other governmental element ownership or sponsorship.

(b) For requisitions, the entry in block 10 or columns 31 through 35 indicates the activity address code of the requisitioner. It may also indicate the intended consignee or ship to address (see H-605). For turn-ins, the entry in columns 31 through 35 indicates the activity address code of the contractor making the turn-in. Activity address codes are published in the DOD Activity Address Directory (see H-210).

(c) Entries in block 11 or columns 36 through 39 (date) shall always be numeric and will be the date of transmittal from the requisitioning activity to the appropriate supply source as follows:

(i) Column 36 shall indicate the last numeric digit of the calendar year in which the document was transmitted. For example, "5" for 1965, "6" for 1966, etc.; and

(ii) Columns 37 through 39 shall indicate the numeric consecutive day of the calendar year on which the document was transmitted. For example, "063" for March 4. (See Julian day calendar in H-609.)

(d) Entries in block 12 or columns 40 through 43 may be numeric or alphabetic characters to indicate the serial number of the document and may be assigned at the discretion of the document originator. The serial number shall not be duplicated on the same day. The use of alphabetic characters can serve to provide for block assignment by Service/Agency designated activities. The use of alpha characters in columns 41 through 43 will be limited to intra-Service/Agency requisitions. Alpha characters may be entered in Column 40 on both intra- and inter-Service/Agency requisitions. The following alphabetic codes have been reserved for use in column 40 as indicated:

Code	*Explanation*
G	By the Army and the Navy in requisitions when a Not Operationally Ready Supply (NORS) condition exists.
J	To identify Interservice Supply Support Procedures (ISSP) requisitions resulting from interrogation and offer procedures.
K	To identify ISSP requisitions and follow-on documents resulting from Defense Logistics Services Center (DLSC) mechanized screening procedures. Code "K" will be entered in column 40 of requisition documents prepared for materiel requirements upon receipt of offer notifications from DLSC. Code "K" will be perpetuated in all follow-on documents resulting from the requisitions processing transactions.
L	To identify requisitions and other Excess Personal Property Redistribution Documents resulting from screening DLSC excess of potential excess listings. Code "L" will be entered in column 40 of requisition documents prepared by bases, posts, camps, and stations for materiel requirements determined available from screening DLSC excess or potential excess listings. Code "L" when used by the base, post, camp, and station level, denotes a cost avoidance under the Cost Reduction Subgroup Area "Increased Utilization of Excess Equipment and Supplies."
M	To identify requisitions and other Excess Personal Property Redistribution Documents resulting from screening DLSC excess or potential excess listings. Code "M" will be entered in column 40 of requisition documents prepared by bases, posts, camps and stations for materiel requirements determined available from screening DLSC excess or potential excess listings. Code "M" when used by the base, post, camp, and station level, denotes a hard savings under the Cost Reduction Subgroup Area "Increased Utilization of Excess Equipment and Supplies."
N	(Reserved. For future ISSP requisitioning actions requiring special recognition.)
O	Not to be used.
P	Industrial Plant Equipment requisition coded P in CC 40 denotes hard savings under the Cost Reduction subgroup area "Reutilization of Idle Production Equipment."
Q	Industrial Procurement Equipment requisition coded Q in CC 40 denotes a cost avoidance under the Cost Reduction subgroup area "Reutilization of Idle Production equipment."
R through U	(Reserved. For future assignment.)
Y	To identify Marine Corps ownership of materiel applicable to Contractor Inventory Utilization Group (CIUG) Procedures.

Numerics 0001 through 0999 are reserved for use in block 12 or columns 40 through 43 by the Air Force when a NORS condition exists. This reservation of numerics 0001 through 0999 applies only to Air Force NORS requisitions and in no way restricts other Service use of these serial numbers in requisitions.

(e) *Air Force transactions only.* (i) For requisitions in support of Air Force contracts, the contractor's activity address code (EY number or EZ number) as published in section 3 of the DoD Activity Address Directory shall be entered in columns 30 through 35 (blocks 9 and 10 Manual).

(ii) An EZ number shall be used when the materiel requisitioned is required in support of a maintenance type contract such as repair, overhaul, modification, and IRAN. An EY number shall be used when the materiel requisitioned is required in support of any

other type contract such as production or research and development.

(iii) The office assigned contract administration shall request Headquarters, Air Force Logistics Command (MCTM), to assign EY and EZ station activity address codes when required.

H–605 *Signal codes (Block 16—Manual) (Column 51—Mechanical).*

H–605.1 *General.* The purpose of the signal code is two-fold in that it designates the fields containing the intended consignee (ship to) and the activity to receive and effect payment of bills, when applicable. All requisitions and documents resulting therefrom used under MILSTRIP shall contain the appropriate signal code.

H–605.2 *Coding Structure and Meaning.* (a) When the material is to be shipped to the activity indicated in columns 30 through 35 (requisitioner), the signal code shall be as follows:

(i) Code "A"—Bill to blocks 9 and 10—columns 30 through 35.

(ii) Code "B"—Bill to blocks 14 and 15—columns 45 through 50.

(iii) Code "C"—Bill to activity designated by block 17, column 52. However, if the third digit of the document identifier is "5" or "E", the Remarks block may indicate other billing information. See H–606.

(iv) Code "D"—No billing required (free issue).

(b) When the material is to be shipped to the activity indicated in blocks 14 and 15—columns 45 through 50 (supplementary address), the signal code shall be as follows:

(i) Code "J"—Bill to blocks 9 and 10—columns 30 through 35.

(ii) Code "K"—Bill to blocks 14 and 15—columns 45 through 50.

(iii) Code "L"—Bill to activity designated by block 17 column 52. However, if the third digit of the document identifier is "5" or "E," the Remarks block may indicate other billing information. See H–606.

(iv) Code "M"—No billing required (free issue).

H–606 *Fund codes (Block 17—Manual) (Columns 52 and 53—Mechanical).*

H–606.1 *General.* (a) The fund code is provided for the specific use of the requisitioner, when directed by the Military Department to enter a code that will indicate, to the distribution system, that funds are available to pay the charge when and where received. In addition, this fund code will be perpetuated by the distribution system in all follow-on documentation. The fund code construction is the responsibility of the appropriate Military Department.

(b) A secondary use for the fund code field has been provided when the signal code in column 51 (see H–605) is "C" or "L", to indicate the activity that is to be billed. When the signal code (column 51) is "C" or "L", the first position (column 52) of the fund code shall contain an alphabetic character which will indicate the activity to receive the bill.

(c) When the third position of the document identifier (column 3) is "5" or "E" and column 51 is "C" or "L", the information in the "Remarks" field may indicate other billing information.

(d) Requisitions submitted to Defense Supply Centers, other Departments, and the General Services Administration, shall always contain a fund code, unless the material requested has been offered without a reimbursement, in which case the signal code (column 51) will be "D" or "M" (free issue) and the fund code field shall be blank. The submission of a MILSTRIP requisition citing a fund code constitutes sufficient authority for release of materiel and subsequent billing therefor. The billing activity shall always perpetuate the fund code cited on the requisition.

(e) Intra-service requisitions (transactions other than (d) above) may or may not require entries in the fund code field dependent upon the Departmental regulations.

(f) Service use of fund code with signal code "C" or "L" in column 51 will be as follows:

(i) Air Force—in accordance with H–606.2.

(ii) Army—not applicable.

(iii) Navy—not applicable.

(iv) Marine Corps—not applicable, and

(v) Defense Supply Agency—not applicable.

(g) Fund code entries for turn-in of Government-furnished material is required only when specifically requested by the contracting officer. In such cases, the contracting officer will provide the fund code to be used.

H–606.2 *Air Force entries in fund code (Block 17—Manual) (Columns 52 and 53—Mechanical).*

(a) Air Force contractor activities, when directed by that Department, submitting requisitions to Defense Supply Centers, other Departments, and the General Services Administration for base funded items shall enter a two-digit fund code in which the first position (column 52) shall always be a numeric. (Used with signal codes "A," "B," "J," and "K" in column 51.)

(b) Air Force contractor activities submitting requisitions to Air Force depots, when funding is not a condition of requisitioning, shall leave columns 52 and 53 blank. (Used with signal codes "D" and "M" in column 51.)

(c) Air Force inventory managers, when passing requisitions for centrally funded items to Defense Supply Centers, other Departments, and the General Services Administration shall enter a two-digit fund code in which the first position (column 52) shall always be the appropriate alphabetic character, as listed below, identifying the depot obligating the funds and to effect payment. (Used with signal codes "C" and "L" in column 51.)

Code	Activity
K	Sacramento Air Materiel Area, McClellan Air Force Base, Calif.
[illegible]d	Ogden Air Materiel Area, Hill Air Force Base, Utah.
H	Oklahoma City Air Materiel Area, Tinker Air Force Base, Okla.
G	Rome Air Materiel Area, Griffiss Air Force Base, N.Y.
J	Middletown Air Materiel Area, Olmstead Air Force Base, Pa.
L	Warner Robins Air Materiel Area, Robins Air Force Base, Ga.
M	Mobile Air Materiel Area, Brookley Air Force Base, Ala.
N	Headquarters Air Force Logistics Command, Wright-Patterson Air Force Base, Ohio.
P	San Antonio Air Materiel Area, Kelly Air Force Base, Tex.
R	San Bernardino Air Materiel Area, Norton Air Force Base, Calif.
W	Air Force Systems Command (SCCA), Andrews Air Force Base, Md.

H–607 *Advice and status codes (Block 22—Manual) (Columns 65 and 66—Mechanical).*

H–607.1 *General.*

(a) The advice/status field is of dual use and its application and the coding structures are dependent upon the directional flow of the documents.

(b) Advice codes (see H–607.2) are numeric/alphabetic and flow from requisition originators to initial processing points and are thereafter perpetuated into passing actions and Release/Receipt documents. The purpose of advice codes is to provide coded instructions to supply sources when such data are considered essential to supply action and entry in narrative form is not feasible.

(c) Status codes (see H–607.3) are alphabetic/alphabetic and alphabetic/numeric and flow from supply sources to requisitioners or consignees and inform recipients of the status of requisitions.

H–607.2 *Advice Codes*—numeric/alphabetic *(from requisitioner to initial processing point).*

(a) *General codes.*

Columns 65	Columns 66	
2	A	Item is not locally obtainable through manufacture, fabrication, or procurement.
2	B	Requested item only will suffice. Do not substitute.
2	C	Do not back-order. Reject unfilled quantity not available for delivery by indicated delivery date. FILL or KILL.
2	D	Furnish exact quantity requested (i.e., do not adjust to unit pack quantity).
2	J	Do not substitute or back-order. FILL or KILL.
2	L	Resubmitted. Previous requisition which was rejected as suspect excess quantity. Quantity field in this requisition reflects confirmed valid requirement.

(b) *Air Force transactions only.*

Columns 65	Columns 66	
6	A	Request for shipment of Reparable Materiel. FILL or KILL.
6	B	Request for shipment of TOC Materiel. FILL or KILL.

H–607.3 *Status Codes—Alphabetic/Alphabetic and Alphabetic/Numeric (From Processing Point to authorized activity).*

(a) *Supply status.* Supply status (except "rejection" status, code "C") predicts shipment on time as specified by the priority delivery date or the required delivery date unless specific supply status is received advising of an anticipated delay or an estimated availability date. Latest status can be determined by "transaction dates" entered in columns 71 through 73. Supply status codes are as follows:

Columns 65	66	
B	A	Item being processed for release and shipment.
B	B	Item back-ordered. The estimated date of release is entered in columns 62 through 64.
B	C	Item back-ordered. Long delay is anticipated. Item in "Remarks" field can be furnished as a substitute. If desired, submit cancellation and requisition offered substitute.
B	D	Item delayed. Supply action being continued. The estimated date of release is entered in columns 62 through 64.
B	F	No record of your requisition. Deobligate funds, and if still required, requisition using new document number. (Applicable to priority designators 9-20 only.)
B	G	Stock number changed or stock number now assigned to part number submitted. Examine also unit of issue and quantity field for possible changes. Adjust all records accordingly.
B	H	Substitute/interchangeable item being supplied. See substitute/interchanged stock or part number in stock number field. Examine unit of issue and quantity fields for possible changes. Adjust records if applicable.
B	J	Unit of issue and/or quantity changed. Adjust all records accordingly.
B	K	Requisition erroneously addressed and has been re-routed. Forwarded subsequent followups to activity indicated in columns 67 through 69.
B	L	Followup forwarded to activity indicated in columns 67 through 69 who will furnish status. Forward subsequent followups to last known source.
B	M	Requisition referred to activity indicated in columns 67 through 69.
B	N	Requisition being processed as free issue. Signal and fund code fields corrected as noted. Adjust local fund obligation records.
B	Q	Canceled. Results from receipt of cancellation request from requisitioner, consignee, manager, or other authorized activity.
B	V	Item being procured for direct shipment to consignee. The estimated date of release of material for shipment to consignee. The estimated date of release of material for shipment is entered in columns 62 through 64.

(b) *Rejection codes.* All interservice rejections shall contain "C" in column 65 followed by an alphabetic or numeric character in column 66 which shall furnish the appropriate "reason for rejection". Items rejected, if still required, shall be rerequisitioned using new document numbers. To preclude similar rejection, the requisitioner shall consider the reason for the previous rejection and correct or adequately elaborate on the new requisition. Rejection codes are as follows:

Columns 65	66	
C	A	Rejected. Separate correspondence referring to this document number is being forwarded by appropriate media, explaining reason for this action.
C	B	Rejected. Initial requisition requested rejection of that quantity not available for immediate release. Quantity field indicates quantity not being filled.
C	F	Rejected. This requisition is an exact duplicate of a previously received requisition presently in process.
C	G	Rejected. Unable to identify requested item. Rerequisition and furnish correct Federal Stock Number or part number (including reference to appropriate publication or drawing), or end-item application.
C	H	Rejected. Requisition submitted to incorrect single-manager/inventory manager/technical service/distribution depot/or GSA. Research for correct source and submit new requisition.
C	J	Rejected. Item coded (or being coded) "obsolete" in latest stock lists/catalogs and not available for issue.
C	K	Rejected. Item not available. Returned for supply by local issue of next higher assembly, component or kit, or submit requisition for next higher assembly.
C	L	Rejected. Item not available. Requisition component parts if practicable.
C	M	Rejected. Fund obligation not cited. Furnish new requisition and fund code.
C	N	Rejected. Source of supply is local manufacturer or fabrication.
C	P	Rejected. Source of supply is local procurement from customer (or command) funds.
C	Q	Rejected. Item requested is command or Department regulated or controlled. Requisition through appropriate channels.
C	S	Rejected. Quantity requisitioned is suspect of error or indicates excessive quantity. Partial quantity being supplied. Quantity field in this transaction reflects quantity rejected. If requirement still exists, submit a new requisition for the required quantity using Advice Code 2L.
C	T	Rejected. Make, model, series, serial number, and/or end item usage or publication reference as applicable, is necessary in order to determine item required. Submit new requisition (by mail or message if necessary) and furnish required information.
C	U	Rejected. Item requested is procured only in a repair kit. Requisition appropriate kit.
C	W	Rejected. Item not available. Local procurement is authorized for this requisition only. If item cannot be locally procured, resubmit new requisition using Advice Code 2A.
C	X	Rejected. Unable to identify the "bill to" address designated by the signal code.

(c) *Air Force transactions only.*

Columns 65	66	
F	A	Obligation authority for base procurement (used to indicate that the requisitioning activity is authorized to make local procurement of items for which Air Force Logistics Command has procurement responsibility). Central procurement funds will be made available to the requisitioning activity on an obligation authority. Not applicable from CONUS to overseas activities.
F	B	Cost Category I or Cost Category II nonexpendable item of equipment. Item requested is not authorized for stock purposes and stand-by level has not been approved by the inventory manager.
F	C	Passing action (materiel release order or redistribution order) issued over 60 days ago. Air Materiel Area followup action has not resulted in shipment confirmation or denial. If item is still required, requisition using new document number.
F	D	Rejected. Quantity field of original requisition is suspect of key-punch or transmission error. A portion of the quantity requested has been honored; however, the quantity reflected on this card has been rejected. If a requirement exists, for the balance, submit a new requisition.

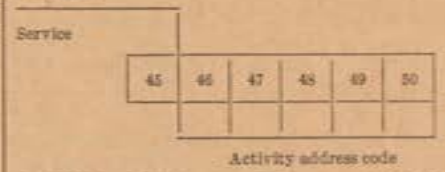
H-608 *Supplementary address entries (Blocks 14 and 15—Manual) (Columns 45 through 50—Mechanical).*

H-608.1 *General.* The supplementary address is a two-part field to indicate:

(i) Service (block 14 or column 45), and

(ii) Activity address code (block 15 or columns 46 through 50).

Example:



H-608.2 *Entries.* (a) The entry in block 14 or column 45 (service) shall always be the appropriate character from H-601 that indicates the service or other Government element ownership or sponsorship. Specific alphabetic characters are prescribed for normal requisitioning and shipping and for contractor's use.

(b) Entries in block 15 or columns 46 through 50 indicate the specific activity address code for the purpose of receiving material or receiving documentation. The activity address code will be established and disseminated in the DOD Activity Address Directory. Each activity address code so established will contain the address(es) in detail to permit shipping of material, billing for material, and mailing of documentation.

(c) When the originator of the document desires to utilize block 15 or columns 46 through 50 for other data, the entry will not be significant to other than the originator. In these cases, an alpha "Y" shall be entered in column 45. The alpha "Y" indicates that the contents of the field (block 15 or columns 46 through 50) are not significant to the MILSTRIP system and shall not be disseminated, but will be perpetuated and shown on subsequent document generated therefrom.

H-609 *Julian Day Calendar.*

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	1	32	60	91	121	152	182	213	244	274	305	335
2	2	33	61	92	122	153	183	214	245	275	306	336
3	3	34	62	93	123	154	184	215	245	276	307	337
4	4	35	63	94	124	155	185	216	247	277	308	338
5	5	36	64	95	125	156	186	217	248	278	309	339
6	6	37	65	96	126	157	187	218	249	279	310	340
7	7	38	66	97	127	158	188	219	250	280	311	341
8	8	39	67	98	128	159	189	220	251	281	312	342
9	9	40	68	99	129	160	190	221	252	282	313	343
10	10	41	69	100	130	161	191	222	253	283	314	344
11	11	42	70	101	131	162	192	223	254	284	315	345
12	12	43	71	102	132	163	193	224	255	285	316	346
13	13	44	72	103	133	164	194	225	256	286	317	347
14	14	45	73	104	134	165	195	226	257	287	318	348
15	15	46	74	105	135	166	196	227	258	288	319	349
16	16	47	75	106	136	167	197	228	259	289	320	350
17	17	48	76	107	137	168	198	229	260	290	321	351
18	18	49	77	108	138	169	199	230	261	291	322	352
19	19	50	78	109	139	170	200	231	262	292	323	353
20	20	51	79	110	140	171	201	232	263	293	324	354
21	21	52	80	111	141	172	202	233	264	294	325	355
22	22	53	81	112	142	173	203	234	265	295	326	356
23	23	54	82	113	143	174	204	235	266	296	327	357
24	24	55	83	114	144	175	205	236	267	297	328	358
25	25	56	84	115	145	176	206	237	268	298	329	359
26	26	57	85	116	146	177	207	238	269	299	330	360
27	27	58	86	117	147	178	208	239	270	300	331	361
28	28	59	87	118	148	179	209	240	271	301	332	362
29	29		88	119	149	180	210	241	272	302	333	363
30	30		89	120	150	181	211	242	273	303	334	364
31	31		90		151		212	243		304		365

For leap year, add one to each date after 28 February.

H-610 *Mode of shipment codes.*

Code	Description
A	Motor, truckload.
B	Motor, less truckload.
C	Van (unpacked, uncrated personal and/or Government property).
D	Driveaway, truckaway, towaway.
E	Busline.
F	MATS.
G	Surface, parcel post.
H	Air, parcel post.
I	Government truck.
J	REA express.
K	Rail, carload.
L	Rail, less carload.
M	Freight forwarder.
N	Contract air (LOGAIR/QUICK-TRANS).
O	Organic military air.
V	Through bill of lading.
P	Air freight.
Q	Air express.
R	Air charter.
S	Air freight forwarded.
T	Air, van.
U	Sea-van service.
W	Water, river, lake, coastal (commercial).
X	SEA-lift Express Service (SEA-EX).
Y	Intratheater airlift system.
Z	MSTS (controlled/contract/arranged space).
2	Government watercraft, barge/lighter.
3	Roll on/roll off service.
4	Armed Forces Courier Service.

H-611 *Supply status card entries.* The supply status card is used to furnish exception status and 100 percent supply status as follows:

Field/Legend	Columns	Explanation of Entries
Document identifier	1-3	The appropriate cod applicable to supply status, to include the recipient of the status. (See H-602.)
Routing identifier	4-6	The appropriate code of the supply source furnishing the supply status.
Media and status	7	The code as shown on the requisition.
Stock or part No.	8-22	The stock or part number to which status is applicable. (See H-607.3 for status codes applicable to changed or substituted numbers.)
Unit of issue	23-24	The unit of issue applicable to the stock or part number. (See H-607.3 for status code applicable to changed unit of issue.)
Quantity	25-29	The quantity applicable to the item being supplied. (See H-607.3 for status code applicable to quantity change and/or relating to a unit of issue change.)
Document number	30-43	The document number as shown on the requisition.
Suffix	44	The suffix code when the requisitioned quantity is divided into separate supply actions. When the requisition quantity is not divided, this field shall be left blank.
Supplementary address	45-50	The codes as shown on the requisition.
Signal	51	
Fund	52-53	
Distribution	54-56	
Project	57-59	
Priority	60-61	
Estimated availability	60-64	When required by the status code, the Julian day corresponding to the date that it is estimated materiel will be released by the supply source.
Status	65-66	The appropriate status code to convey the information regarding the status of the requisition. See H-607.3.
Routing identifier	67-69	The "last known source" to which authorized followup action will be directed.
Blank	70	Blank.
Transaction date	71-73	The Julian day calendar date of the transaction on which the supply decision was made.
Unit price	74-80	The unit price of the stock or part number shown in columns 8-22. When the supply status contains a status code relating to an erroneously routed requisition, this field will be left blank. See H-607.

H-612 *Shipment status card entries.* The shipment status card is the document by which specific shipping information is furnished in reply to a followup. Entries are as follows:

Field/Legend	Columns	Explanation of Entries
Document identifier	1-3	The code applicable to the shipment status card to include the coded recipient as indicated in the followup card. See H-602.
Routing identifier	4-6	The appropriate code of the activity furnishing the status.
Media and status	7	The code as shown on the followup card.
Stock or part number	8-22	The stock or part number of the item supplied.
Unit of issue	23-24	The unit of issue for the item supplied.
Quantity	25-29	The quantity of the item supplied.
Document number	30-43	The document number as shown on the requisition.
Suffix	44	The suffix code, when requisitioned quantity is divided into separate supply actions. When the requisitioned quantity is not divided, this field shall be left blank.
Supplementary address	45-50	The coded address as shown on the requisition.
Hold code	51	Type of hold code, when applicable. Left blank in response to followup when shipment has not occurred.
Submission time	52-53	Computed submission time. Left blank in response to a followup when shipment has not occurred. See paragraph H-403.
Distribution	54-56	The code as shown on the requisition.
Estimated shipment date or date shipped	57-59	The date delivered to carrier. When used in response to a followup and shipment has not occurred, will contain estimated shipment date.
Priority	60-61	The code shown on the requisition.
Transportation Control Number (TCN) or Government Bill of Lading Number (GBL)	62-76	The TCN for overseas and parcel post shipments; the TCN or consignor and GBL number for CONUS shipments. Left blank in response to followup when shipment has not occurred.
Mode of shipment	77	The appropriate code identifying the mode of shipment (See H-610).
Date available for shipment or port of embarkation (POE)	78-80	CONUS; Date available for shipment. Overseas: POE except on Parcel Post. Left blank on Parcel Post and in response to a followup when shipment has not occurred.

H-613 *Reply to followup card entries.* The reply to a followup will contain the most current information available regarding the status of a requisition and may be as follows:

(i) A duplication of the data contained in a supply status card, except it will be identified by the document identifier as a supply status—reply to followup document, and may contain a change in the estimated availability date. The transaction date will correspond to the date of reply. (See H-611 for entries.)

(ii) A shipment status-reply to followup card, identified as such in the document identifier. (See H-612 for entries.)

H-614 *Replies to cancellation requests.* The reply to a cancellation request may be as follows:

(i) If the cancellation is made, a reply identified by the document identifier as a reply to cancellation request, will be transmitted. This reply will be in the form of a supply status document except for the document identifier code in card columns 1 through 3 and will contain a status code "BQ" in card columns 65 and 66. See H-611 for entries.

(ii) If the materiel has already been shipped, a reply identified by the document identifier as a reply to cancellation request—shipment status, will be transmitted. This reply will be in the form of a shipment status card except for the document identifier. See H-612 for entries.

H-615 *Management codes.*

H-615.1 *General.* The appropriate management code is entered in Column 72 of requisitions and turn-ins when specified by the contracting Military Department or Agency.

H-615.2 *Air Force entry of Management Code (Block 23—Manual) (Column 72—Mechanical) (Column 72—Shipping Document for GFM Turn-In, DD Form 1423)*—(a) *General.* Air Force maintenance, production, and research and development contractors when requesting GFM from or returning GFM to Air Force activities shall enter, in Column 72, the appropriate alphabetic character as listed herein.

Code	Identification of Operation
C	On all returns to Air Force activities of end items (other than those excluded in (b) below) from maintenance contracts for modification and modernization.
F	On all requisitions and returns to Air Force activities of GFM including modifiction kits furnished in support of maintenance, production, and including return of contractor acquired property (CAP).
H	On all returns to Air Force activities of end items (other than those excluded in (b) below) from maintenance contracts for repair and testing.
J	On all requisitions and returns to Air Force activities of Government-furnished aeronautical equipment (GFAE).
K	On all returns of unserviceable components removed from end items and shipped to an Air Force Specialized Repair Activity (SRA)
L	On all requisitions and returns to Air Force activities of Government-furnished equipment (GFE) under loan agreements for maintenance contracts and bailed items under production, and research and development contracts.

(b) *Exclusions.* Air Force transactions involving the following end items are excluded from the provisions of H-615.2(a) above:

(i) Complete aircraft and missiles;
(ii) Complete vehicles;
(iii) Propulsion units;
(iv) Industrial plant equipment controlled by the Defense Industrial Plant Equipment Center, Memphis, Tennessee;
(v) COMSEC (Communications Security) and SIGINT (Signals Intelligence) equipment, COMSEC aids (Keying Material);
(vi) Forms and publications;
(vii) Bulk petroleum and package fuel products; and
(viii) Perishable subsistence items and brand-name resale subsistence items.

§ 30.7 Appendix K—Preaward survey procedures.

* * * * *

K-203.1 *General.* (a) Preaward surveys will be conducted by the contract administration office within the normal time frame of 7 working days after receipt of request and in the detail requested by the purchasing office. In unusual procurement situations, reports of such surveys may be requested in a shorter time if the situation so warrants. Qualified specialists responsible for the factors referenced in K-202(a) shall participate as required.

* * * * *

[ASPR Rev. 19, Oct. 1, 1966] (Sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

KENNETH G. WICKHAM,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 67-534; Filed, Jan. 17, 1967; 8:45 a.m.]

Chapter VII—Department of the Air Force

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter VII of Title 32 is amended as follows:

SUBCHAPTER A—ADMINISTRATION

The title of Part 801 and § 801.1 are revised to read as follows:

PART 801—ADMISSION OF LABOR UNION REPRESENTATIVES OF CONTRACTOR EMPLOYEES TO AIR FORCE INSTALLATIONS

§ 801.1 Purpose.

This part establishes Air Force policy on the admission of labor union representatives of contractor employees to Air Force installations. The terms "labor union," "union representative," "agent," etc., as used in this part, refer to those of contractor employees only.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012) [AFR 11-23, Nov. 25, 1966]

SUBCHAPTER D—CLAIMS AND LITIGATION

A new Part 847 is added as follows:

PART 847—AUTHENTICATION OF OFFICIAL AIR FORCE RECORDS FOR ADMISSION INTO EVIDENCE

Sec.
847.1 Purpose.
847.2 Definitions.
847.3 Rules of evidence.
847.4 Authenticating official records.
847.5 Offering records in evidence.

AUTHORITY: The provisions of this Part 847 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 110-10, December 13, 1966.

§ 847.1 Purpose.

This part tells how to authenticate or prove official Air Force records and copies or extracts thereof for admission in evidence in civilian judicial and quasi-judicial proceedings.

§ 847.2 Definitions.

(a) *Official Air Force records.* All documents, records, or papers which are required by the Department of the Air Force to be prepared or processed, and retained.

(b) *Custodian.* A person in charge of an office in which official Air Force records are filed by law, regulation, or custom; a person so designated by proper authority; and for certain purposes, a person who has physical possession of official Air Force records for use in his official duties.

§ 847.3 Rules of evidence.

The rules of evidence at common law and various statutes specify how documents and records may be proved genuine and admitted as evidence. These rules ordinarily provide for proof by oral testimony. An exception provided by law and court rules permits the proof of public records by authenticated copies. With proper authentication, copies of official Air Force records are admissible in evidence instead of the originals. The method of authenticating official Air Force records provided in this part does not prevent proof of genuineness by any other authorized method.

§ 847.4 Authenticating official records.

Custodians are responsible for authentication of official Air Force records.

(a) *Civilian judicial or quasi-judicial proceedings.* An official Air Force record or an entry therein may be evidenced by an official publication thereof or by a copy attested by the custodian and accompanied with a certificate that such custodian has lawful custody. Use AF Form 44, "Certificate of Records," to authenticate official Air Force records and copies or extracts therefrom. The record custodian prepares the first certificate on the AF Form 44 and forwards it to Hq USAF (AFJALF), Washington, D.C. 20330, together with the documents being authenticated. The Secretary of the Air Force or his designee signs under the second certificate and affixes the seal of the Department of the Air Force to the AF Form 44. This procedure satisfies the requirements of Rule 44, Federal Rules of Civil Procedure, for the admission as evidence of official Air Force records, and usually will satisfy those of State jurisdictions.

(b) *Assistance of staff judge advocate.* Custodians of official Air Force records should consult their staff judge advocate for assistance in preparing:

(1) Certificates attesting to the authenticity of documents in their custody;

(2) AF Form 44; and,

(3) Voluminous or bulky records for authentication.

§ 847.5 Offering records in evidence.

(a) Do not offer official Air Force records physically into evidence unless they can be withdrawn and a copy substituted for the original. Copies of Air Force records, authenticated as provided in this part, are admissible in evidence instead of the records themselves. Copies must be used in those proceedings which do not permit the substitution of reproductions of the original documents admitted into evidence.

(b) If the custodian of official Air Force records certifies that after diligent search no record or entry of a specified matter exists in the records of his office, that certificate is admissible as evidence of such fact. The custodian prepares the first certificate on AF Form 44, stating that, after diligent search, no record or entry of a specified matter exists in the records of his office. The AF Form 44 is then forwarded for completion as provided in § 847.4(a).

SUBCHAPTER F—AIRCRAFT

Part 856 is revised to read as follows:

PART 856—AIRCRAFT ARRESTING SYSTEMS

Sec.
856.1 Purpose.
856.2 System and use.
856.3 Policy on systems authorized.
856.4 Overall policy on use of systems.
856.5 Use of systems by non-U.S. Government aircraft.
856.6 Responsibility of the pilot.
856.7 Liability agreement.
856.8 FAA operational agreement.

AUTHORITY: The provisions of this Part 856 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 55-42, August 4, 1966.

§ 856.1 Purpose.

This part explains what aircraft arresting systems are, systems authorized, how they are installed, operated, and used at Air Force installations and joint-use civil airports, what pilot responsibilities are, and how to prepare liability and operation agreements with the FAA.

§ 856.2 System and use.

The aircraft arresting system is designed primarily to stop in an emergency jet aircraft having an arresting capability. It consists of a method of engagement and an energy absorber. The nylon webbing barrier net activated cable, BAK-11 "Pop Up Device" and arrester hook which engages a supported, elevated cable across the runway are examples of methods of engagement. Energy absorbers are the MA-1/MA-1A anchor chain, BAK-6 "Water Squeezer" and the BAK-9 and BAK-12 "Rotary Friction Brake."

§ 856.3 Policy on systems authorized.

Normally an aircraft arresting system will be provided for the main instrument runway only. At bases where the primary mission involves pilot training or transition, an additional system is authorized for the secondary runways.

§ 856.4 Overall policy on use of systems.

(a) Jet aircraft with an arresting capability will land and take off toward a compatible available arresting system during normal operations. Operational conditions, such as crosswinds, safety of flight, or peculiar operation conditions may justify exception to this policy.

(b) Hook-equipped aircraft will take off and land toward an elevated cross-runway cable or BAK-11; other aircraft toward a raised nylon barrier net or BAK-11. Additionally:

(1) If the nylon barrier net and elevated cable and/or BAK-11 are installed and the barrier net can be remotely controlled from the tower, the barrier net should be lowered for tail hook-equipped aircraft. However, to provide maximum compatibility with mission requirements—and at the option of the commander after his evaluation of all safety considerations—barrier nets may be raised or lowered for hook-equipped aircraft. Those barrier nets which cannot be remotely controlled from the tower may be left up for hook-equipped aircraft.

(2) If the MA-1/MA-1A barrier equipped only with the barrier net is installed, the net will be raised for hook-equipped aircraft and the arrester hook deployed before engagement. NOTE: B-57 and T-37 aircraft are not compatible with the MA-1/MA-1A barrier net and should not engage the raised barrier net.

§ 856.5 Use of systems by non-U.S. Government aircraft.

In an emergency, pilots of non-Government aircraft may, upon request, use arresting systems installed by the Air Force at Air Force or joint-use airfields in the United States or overseas. However, the Air Force accepts no liability for damage resulting from attempted engagements by such aircraft.

§ 856.6 Responsibility of the pilot.

Pilots using arresting systems must be thoroughly familiar with the capabilities and limitations of the various systems installed. The Technical Order 35E8 series contain specific data on these systems. The pilot must understand the following general information, which is neither all inclusive nor a substitute for detailed study of the appropriate TOs:

(a) He will request that the MA-1/MA-1A net type barrier be lowered during "gear up" landings.

(b) He will request the desired barrier position prior to takeoff and before changing from tower or ground control to departure frequency.

(c) He will use the standard emergency radio phraseology, "Barrier, Barrier, Barrier" when emergency conditions require raising the net.

(d) He must be aware of the effect of various aircraft configurations on the probability of a successful engagement, such as speed, weight, external stores, dive brakes, flaps, and tail hooks.

§ 856.7 Liability agreement.

When the Air Force installs an aircraft arresting system on joint-use civil airports for the primary use of U.S. military aircraft, the FAA acts for, and on behalf of, the Air Force in operating this equipment. Any third-party claim presented for damage, injury, or death, resulting from FAA operation of the system, or from Air Force or Air National Guard maintenance thereof, is the responsibility of the Air Force and is processed the same as any other claim against the Air Force. (See AFM 112-1 (Claims Manual).) This policy does not apply to an incident arising in connection with the intentional operation of the equipment by FAA personnel for civil aircraft since such claims are the responsibility of that agency. Therefore, a separate agreement between the Air Force and the FAA concerning such damage at each joint-use civil airport is not required.

§ 856.8 FAA operational agreement.

(a) MA-1A aircraft arresting barriers are operated by remote control by FAA air traffic controllers at joint-use airports where the control tower is manned by FAA personnel. Hence, there must be a written agreement describing FAA functions and responsibility.

(b) Each major commander is authorized to enter into an agreement with the FAA for operating MA-1A aircraft arresting systems at joint-use airports. He may redelegate this authority to the base commander.

SUBCHAPTER H—AIR FORCE RESERVE OFFICERS' TRAINING CORPS

Part 871 is corrected as follows:

PART 871—DEFERMENT OF AIR FORCE ROTC CADETS

In F.R. Doc. 66-13116, appearing at 31 F.R. 15318, December 7, 1966, the heading for Part 871 is corrected to read as above.

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-533; Filed, Jan. 17, 1967; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

Informational Material and Forms

Sections 101-43.311-1 and 101-43.315-5 are revised to require that when any item of equipment is reported as excess, all available manuals, diagrams, and instructional or informational material pertaining thereto shall be reported and transferred with the equipment. Sec-

tions 101–43.4900 and 101–43.4904 are revised to state where forms illustrated in Subpart 101–43.49 may be obtained, and to transmit a revised GSA Form 1539, Request for Excess Personal Property. The revised form provides spaces for the name and phone number of the person to be contacted by GSA, and the Federal Stock Number, if available.

Subpart 101–43.3—Utilization of Excess

Subpart 101–43.3 is amended by revising § 101–43.311–1 and by adding a new paragraph to § 101–43.315–5 as follows:

§ 101–43.311–1 Reporting.

Except as set forth in § 101–43.312, excess personal property shall be reported promptly as provided in this § 101–43.311–1 and in accordance with the Federal Supply Classification Groups and Classes contained in § 101–43.4901. Full descriptions will be used, when available. In the absence of such descriptions, adequate commercial descriptions will be furnished. Whenever possible, Federal stock numbers should be provided as part of the description. It is especially important that the excess property report reflect the true condition of the property as of the date it is reported excess, through assignment of the appropriate code designation, as defined in § 101–43.4902–1. Further, whenever an item of equipment is reported as excess on Standard Form 120, Report of Excess Personal Property, any available operating manual, parts list, circuit or wiring diagram, maintenance record, log, or other instructional or informational publication or brochure pertaining to the equipment shall be reported on the Standard Form 120.

§ 101–43.315–5 Procedure for effecting transfers.

* * * * *

(i) Whenever an excess item of equipment is transferred, any available operating manual, parts list, circuit or wiring diagram, maintenance record, log, or other instructional or informational publication or brochure pertaining to the equipment shall accompany and be transferred with the item of equipment.

Subpart 101–43.49—Illustrations

Subpart 101–43.49 is amended by revising §§ 101–43.4900 and 101–43.4904 as follows:

§ 101–43.4900 Scope of subpart.

This subpart prescribes lists and forms applicable in connection with the utilization of personal property. GSA forms may be obtained from the appropriate General Services Administration regional office, Regional Property Management and Disposal Service. Standard forms may be obtained from the nearest GSA supply depot.

§ 101–43.4904 GSA Form 1539, Request for Excess Personal Property.

NOTE: The form in § 101–43.4904 is filed as a part of the original document. Copies may be obtained from the appropriate General Services Administration regional office, Regional Property Management and Disposal Service.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER.

Dated: January 10, 1967.

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

[F.R. Doc. 67–572; Filed, Jan. 17, 1967; 8:47 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 54—GRANTS FOR SPECIALIZED SERVICE FACILITIES

Subpart E—Grants for Regional Medical Programs

On March 25, 1966, a notice of rule making was published in the FEDERAL REGISTER (31 F.R. 4969) proposing the adoption of new regulations relating to grants for the support of regional medical programs. The notice provided a period of 30 days for receipt of data, views, and arguments.

After consideration of the comments submitted and appropriate modification, effective immediately upon publication in the FEDERAL REGISTER, Title 42, Chapter I, Subchapter D, Part 54, is amended by adding a new Subpart E to read as follows:

Subpart E—Grants for Regional Medical Programs

Sec.
54.401 Applicability.
54.402 Definitions.
54.403 Eligibility.
54.404 Application.
54.405 Terms, conditions, and assurances.
54.406 Award.
54.407 Termination.
54.408 Nondiscrimination.
54.409 Expenditures by grantee.
54.410 Payments.
54.411 Different use or transfer; good cause for other use.
54.412 Publications.
54.413 Copyrights.
54.414 Interest.

AUTHORITY: The provisions of this Subpart E issued under sec. 215, 58 Stat. 690, sec. 906, 79 Stat. 930; 42 U.S.C. 216, 299f. Interpret or apply secs. 900, 901, 902, 903, 904, 905, 909, 79 Stat. 926, 927, 928, 929, 930, 42 U.S.C. 299, 299a, 299b, 299c, 299d, 299e, 299f.

§ 54.401 Applicability.

The provisions of this subpart apply to grants for planning, establishment, and operation of regional medical programs as authorized by Title IX of the Public Health Service Act, as amended by Public Law 89–239.

§ 54.402 Definitions.

(a) All terms not defined herein shall have the meaning given them in the Act.

(b) "Act" means the Public Health Service Act, as amended.

(c) "Title IX" means Title IX of the Public Health Service Act, as amended.

(d) "Related diseases" means those diseases which can reasonably be considered to bear a direct relationship to heart disease, cancer, or stroke.

(e) "Title IX diseases" means heart disease, cancer, stroke, and related diseases.

(f) "Program" means the regional medical program as defined in section 902(a) of the Act.

(g) "Practicing physician" means any physician licensed to practice medicine in accordance with applicable State laws and currently engaged in the diagnosis or treatment of patients.

(h) "Major repair" includes restoration of an existing building to a sound state.

(i) "Built-in equipment" is equipment affixed to the facility and customarily included in the construction contract.

(j) "Advisory group" means the group designated pursuant to section 903(b)(4) of the Act.

(k) "Geographic area" means any area that the Surgeon General determines forms an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of growth; location and extent of transportation and communication facilities and systems; presence and distribution of educational, medical and health facilities and programs, and other activities which in the opinion of the Surgeon General are appropriate for carrying out the purposes of Title IX.

§ 54.403 Eligibility.

In order to be eligible for a grant, the applicant shall:

(a) Meet the requirements of section 903 or 904 of the Act;

(b) Be located in a State;

(c) Be situated within a geographic area appropriate under the provisions of this subpart for carrying out the purposes of the Act.

§ 54.404 Application.

(a) *Forms.* An application for a grant shall be submitted on such forms and in such manner as the Surgeon General may prescribe.

(b) *Execution.* The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant all of the obligations specified in the terms and conditions of the grant including those contained in these regulations.

(c) *Description of program.* In addition to any other pertinent information that the Surgeon General may require, the applicant shall submit a description of the program in sufficient detail to clearly identify the nature, need, purpose, plan, and methods of the program, the nature and functions of the participating institutions, the geographic area to be served, the cooperative arrangements in effect, or intended to be made effective, within the group, the justification supported by a budget or other data, for the amount of the funds requested, and financial or other data demonstrat-

ing that grant funds will not supplant funds otherwise available for establishment or operation of the regional medical program.

(d) *Advisory group; establishment; evidence.* An application for a grant under section 903 of the Act shall contain or be supported by documentary evidence of the establishment of an advisory group to provide advice in formulating and carrying out the establishment and operation of a program.

(e) *Advisory group; membership; description.* The application or supporting material shall describe the selection and membership of the designated advisory group, showing the extent of inclusion in such group of practicing physicians, members of other health professions, medical center officials, hospital administrators, representatives from appropriate medical societies, voluntary agencies, representatives of other organizations, institutions and agencies concerned with activities of the kind to be carried on under the program, and members of the public familiar with the need for the services provided under the program.

(f) *Construction; purposes, plans, and specifications; narrative description.* With respect to an application for funds to be used in whole or part for construction as defined in Title IX, the applicant shall furnish in sufficient detail plans and specifications as well as a narrative description, to indicate the need, nature, and purpose of the proposed construction.

(g) *Advisory group; recommendation.* An application for a grant under section 904 of the Act shall contain or be supported by a copy of the written recommendation of the advisory group.

§ 54.405 Terms, conditions, and assurances.

In addition to any other terms, conditions, and assurances required by law or imposed by the Surgeon General, each grant shall be subject to the following terms, conditions, and assurances to be furnished by the grantee. The Surgeon General may at any time approve exceptions where he finds that such exceptions are not inconsistent with the Act and the purposes of the program.

(a) *Use of funds.* The grantee will use grant funds solely for the purposes for which the grant was made, as set forth in the approved application and award statement. In the event any part of the amount paid a grantee is found by the Surgeon General to have been expended for purposes or by any methods contrary to the Act, the regulations of this subpart, or contrary to any condition to the award, then such grantee, upon being notified of such finding, and in addition to any other requirement, shall pay an equal amount to the United States. Changes in grant purposes may be made only in accordance with procedures established by the Surgeon General.

(b) *Obligation of funds.* No funds may be charged against the grant for services performed or material or equipment delivered, pursuant to a contract or agreement entered into by the applicant prior to the effective date of the grant.

(c) *Inventions or discoveries.* Any grant award hereunder in whole or in part for research is subject to the regulations of the Department of Health, Education, and Welfare as set forth in Parts 6 and 8 of Title 45, as amended. Such regulations shall apply to any program activity for which grant funds are in fact used whether within the scope of the program as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Surgeon General to assure that no contracts, assignments, or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligation. Laboratory notes, related technical data, and information pertaining to inventions or discoveries made through activities supported by grant funds shall be maintained for such periods, and filed with or otherwise made available to the Surgeon General or those he may designate at such times and in such manner as he may determine necessary to carry out such Department regulations.

(d) *Reports.* The grantee shall maintain and file with the Surgeon General such progress, fiscal, and other reports, including reports of meetings of the advisory group convened before and after award of a grant under section 904 of the Act, as the Surgeon General may prescribe.

(e) *Records retention.* All construction, financial, and other records relating to the use of grant funds shall be retained until the grantee has received written notice that the records have been audited unless a different period is permitted or required in writing by the Surgeon General.

(f) *Responsible official.* The official designated in the application as responsible for the coordination of the program shall continue to be responsible for the duration of the period for which grant funds are made available. The grantee shall notify the Surgeon General immediately if such official becomes unavailable to discharge this responsibility. The Surgeon General may terminate the grant whenever such official shall become thus unavailable unless the grantee replaces such official with another official found by the Surgeon General to be qualified.

§ 54.406 Award.

Upon recommendation of the National Advisory Council on Regional Medical Programs, and within the limits of available funds, the Surgeon General shall award a grant to those applicants whose approved programs will in his judgment best promote the purposes of Title IX. In awarding grants, the Surgeon General shall take into consideration, among other relevant factors, the following:

(a) Generally, the extent to which the proposed program will carry out, through regional cooperation, the purposes of Title IX, within a geographic area.

(b) The capacity of the institutions or agencies within the program, individually and collectively, for research, training, and demonstration activities with respect to Title IX.

(c) The extent to which the applicant or the participants in the program plan to coordinate or have coordinated the regional medical program with other activities supported pursuant to the authority contained in the Public Health Service Act and other Acts of Congress including those relating to planning and use of facilities, personnel, and equipment, and training of manpower.

(d) The population to be served by the regional medical program and relationships to adjacent or other regional medical programs.

(e) The extent to which all the health resources of the region have been taken into consideration in the planning and/or establishment of the program.

(f) The extent to which the participating institutions will utilize existing resources and will continue to seek additional nonfederal resources for carrying out the objectives of the regional medical program.

(g) The geographic distribution of grants throughout the Nation.

§ 54.407 Termination.

(a) *Termination by the Surgeon General.* Any grant award may be revoked or terminated by the Surgeon General in whole or in part at any time whenever he finds that in his judgment the grantee has failed in a material respect to comply with requirements of Title IX and the regulations of this subpart. The grantee shall be promptly notified of such finding in writing and given the reasons therefor.

(b) *Termination by the grantee.* A grantee may at any time terminate or cancel its conduct of an approved project by notifying the Surgeon General in writing setting forth the reasons for such termination.

(c) *Accounting.* Upon any termination, the grantee shall account for all expenditures and obligations charged to grant funds: *Provided*, That to the extent the termination is due in the judgment of the Surgeon General to no fault of the grantee, credit shall be allowed for the amount required to settle at costs demonstrated by evidence satisfactory to the Surgeon General to be minimum settlement costs, any noncancellable obligations incurred prior to receipt of notice of termination.

§ 54.408 Nondiscrimination.

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Regulations implementing the statute have been issued as Part 80 of Title 45, Code of Federal Regulations. The regional medical programs provide Federal financial assistance subject to the Civil Rights Act and the regulations. Each grant is subject to the condition that the grantee shall comply with the requirements of Execu-

tive Order 11246, 30 F.R. 12319, and the applicable rules, regulations, and procedures prescribed pursuant thereto.

§ 54.409 Expenditures by grantee.

(a) *Allocation of costs.* The grantee shall allocate expenditures as between direct and indirect costs in accordance with generally accepted and established accounting practices or as otherwise prescribed by the Surgeon General.

(b) *Direct costs in general.* Funds granted for direct costs may be expended by the grantee for personal services, rental of space, materials, and supplies, and other items of necessary cost as are required to carry out the purposes of the grant. The Surgeon General may issue rules, instructions, interpretations, or limitations supplementing the regulations of this subpart and prescribing the extent to which particular types of expenditures may be charged to grant funds.

(c) *Direct costs; personal services.* The costs of personal services are payable from grant funds substantially in proportion to the time or effort the individual devotes to carrying out the purpose of the grant. In such proportion, such costs may include all direct costs incident to such services, such as salary during vacations and retirement and workmen's compensation charges, in accordance with the policies and accounting practices consistently applied by the grantee to all its activities.

(d) *Direct costs; care of patients.* The cost of hospital, medical or other care of patients is payable from grant funds only to the extent that such care is incident to the research, training, or demonstration activities supported by a grant hereunder. Such care shall be incident to such activities only if reasonably associated with and required for the effective conduct of such activities, and no such care shall be charged to such funds unless the referral of the patient is documented with respect to the name of the practicing physician making the referral, the name of the patient, the date of referral, and any other relevant information which may be prescribed by the Surgeon General. Grant funds shall not be charged with the cost of—

(1) Care for intercurrent conditions (except of an emergency nature where the intercurrent condition results from the care for which the patient was admitted for treatment) that unduly interrupt, postpone, or terminate the conduct of such activities.

(2) Inpatient care if other care which would equally effectively further the purposes of the grant, could be provided at a smaller cost.

(3) Bed and board for inpatients in excess of the cost of semiprivate accommodations unless required for the effective conduct of such activities. For the purpose of this paragraph, "semiprivate accommodations" means two-bed, three-bed, and four-bed accommodations.

§ 54.410 Payments.

The Surgeon General shall, from time to time, make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses to be incurred or incurred to the extent he determines such payments necessary to carry out the purposes of the grant.

§ 54.411 Different use or transfer; good cause for other use.

(a) *Compliance by grantees.* If, at any time, the Surgeon General determines that the eligibility requirements for a program are no longer met, or that any facility or equipment the construction or procurement of which was charged to grant funds is, during its useful life, no longer being used for the purposes for which it was constructed or procured either by the grantee or any transferee, the Government shall have the right to recover its proportionate share of the value of the facility or equipment from either the grantee or the transferee or any institution that is using the facility or equipment. The Government's proportionate share shall be the amount bearing the same ratio to the then value of the facility or equipment, as determined by the Surgeon General, as the amount the Federal participation bore to the cost of construction or procurement.

(b) *Different use or transfer; notification.* The grantee shall promptly notify the Surgeon General in writing if at any time during its useful life the facility or equipment for construction or procurement of which grant funds were charged is no longer to be used for the purposes for which it was constructed or procured or is sold or otherwise transferred.

(c) *Forgiveness.* The Surgeon General may for good cause release the grantee or other owner from the requirement of continued eligibility or from the obligation of continued use of the facility or equipment for the grant purposes. In determining whether good cause exists, the Surgeon General shall take into consideration, among other factors, the extent to which—

(1) The facility or equipment will be devoted to research, training, demonstrations, or other activities related to Title IX diseases.

(2) The circumstances calling for a change in the use of the facility were not known, or with reasonable diligence could not have been known to the applicant, at the time of the application, and are circumstances reasonably beyond the control of the applicant or other owner.

(3) There are reasonable assurances that other facilities not previously utilized for Title IX purposes will be so utilized and are substantially the equivalent in nature and extent for such purposes.

§ 54.412 Publications.

Grantees may publish materials relating to their regional medical program without prior review provided that such publications carry a footnote acknowledging existence from the Public Health Service, and indicating that findings and conclusions do not represent the views of the Service.

§ 54.413 Copyrights.

Where the grant-supported activity results in copyrightable material, the author is free to copyright, but the Public Health Service reserves a royalty-free, nonexclusive, irrevocable license for use of such material.

§ 54.414 Interest.

Interest or other income earned on payments under this subpart shall be paid to the United States as such interest is received by the grantee.

Dated: December 22, 1966.

[SEAL] WILLIAM H. STEWART,
Surgeon General.

Approved: January 12, 1967.

JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-592; Filed, Jan. 17, 1967; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1096]

[Docket No. AO—257–A13]

MILK IN NORTHERN LOUISIANA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions 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 of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Northern Louisiana marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 3d day after publication of this decision in the FEDERAL REGISTER with respect to Issue No. 5 (deletion of the base and excess plan) and not later than the 10th day after publication in the FEDERAL REGISTER with respect to the other issues. The exceptions should be filed in quadruplicate. 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)).

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Shreveport, La., on December 6, 1966, pursuant to notice thereof which was issued August 23, 1966 (31 F.R. 11318), and a rescheduled notice of hearing which was issued September 8, 1966 (31 F.R. 12023).

The material issues on the record of the hearing relate to:

1. Classification of ending inventory;
2. Classification of transfers of fluid milk products to a nonpool plant;
3. Level of Class II price;
4. Exemption of milk plants operated by governmental agencies; and
5. Deletion of base and excess plan.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Classification of ending inventory.* Fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. Fluid milk products on hand at the end of the month in bulk form should continue to be classified as Class II.

The order presently classifies all ending inventory of fluid milk products as Class II milk. This includes both bulk and packaged products on hand in the plant at the end of the month. The Class II classification of these quantities is subject to adjustment in the next month depending on the handler's entire utilization.

Modification of this procedure by classifying ending inventory of packaged fluid milk products as Class I will reduce the amount of declassification in the subsequent month and permit a closer relationship between handlers' internal accounting methods and required order accounting.

Handlers, for their own accounting purposes, may use the term inventory to include packaged products which have left the plant and are in transit or at distribution points. However, current order provisions which classify inventory as Class II would not comport with inclusion of packaged items which have left the handler's plant. Accordingly, handlers have been paying the Class I milk price of 1 month for products held in their distribution systems outside the plant, and the Class I price of the following month for ending inventories of packaged milk held in their processing plants. The proposed modification would remove this difference in pricing.

The adoption of the plan of classifying all packaged fluid milk products on hand at the end of the month as Class I milk will, in the long run, neither affect handlers' costs nor producers' returns. In the first month in which it is effective, it will increase handlers' costs by the difference between the Class I and Class II prices on the volume of packaged milk previously classified as Class II inventory. This amounts to establishing a Class I value at an earlier date for products which would be entirely or very substantially valued at the Class I price in the succeeding month under the present order provisions.

To insure that all handlers pay the current month's Class I milk price for fluid milk disposed of during the month, it is provided that if the Class I milk price increases over the previous month, the handler will be charged the difference between the Class I milk price for the current month and the Class I milk price for the preceding month on the quantity of beginning inventory of packaged products assigned to Class I milk in the current month. Likewise, if the Class I milk price decreases, the handler will receive a corresponding credit.

To accommodate this change in the classification of fluid milk products in packaged form in inventory, the allocation section of the order should provide that inventory of such packaged fluid milk products on hand at the beginning of the month be subtracted from Class I milk utilization immediately after the allocation of shrinkage and packaged fluid milk products from other orders and before making the other assignments therein provided. Inventory of fluid milk products in bulk form would continue to be handled as under the present provisions of the order.

Inventories of packaged fluid milk products and Class II products on hand at the beginning of the first month in which the amendment of the order becomes effective should be allocated to any available Class II utilization of the plant during the month. This is in recognition of the classification of such items in Class II in the month just prior to amendment. This procedure will preserve the priority of assignment to current receipts of producer milk and to current Class I utilization of the plant.

2. *Classification of transfers of fluid milk products to a nonpool plant.* The classification of fluid milk products transferred to a nonpool plant should be modified in the case where the nonpool plant in turn transfers fluid milk products to pool plants.

A handler proposed that the quantity of skim milk and butterfat involved in the double transfer (from a pool plant to a nonpool plant and thence to a pool plant) be treated as a direct transfer between pool plants.

Proponent transfers bulk fluid milk from his pool plant to a nonpool plant for use in the production of sour cream. Milk so used is Class I. The nonpool plant disposes of the packaged sour cream to the pool plant of proponent handler or other pool plants. The packaged sour cream thus becomes a receipt at such pool plants of a fluid milk product from an unregulated supply plant. If any of the packaged sour cream is allocated to Class I in the pool plant, it is subject to a charge at the difference between the Class I price and weighted average price.

In the absence of an administrative determination to the contrary, the proponent handler would be paying both the Class I price on the milk as transferred to the nonpool plant for manufacture of sour cream, and also the charge on receipts from an unregulated source to the extent the sour cream is returned to his plant and allocated to Class I. A similar combination of charges in excess of the Class I price would apply if the sour cream were disposed of to another pool plant. The proposal made by the handler would eliminate the duplication of

charges. His proposal was limited to apply only to sour cream.

As adopted herein, the modification would apply in the case of any fluid milk product received from a nonpool plant that receives equivalent quantities of skim milk and butterfat from pool plants in the form of fluid milk products. Products other than sour cream may from time to time be handled in a similar manner which, without this modification, would result in a duplication of charges.

The provision, as adopted, would provide that the transfer between two pool plants (via the nonpool plant) would be Class II unless the total allocation of milk in the transferee plant required a different classification. It further provides that if this classification procedure results in milk from two or more handlers being classified as Class I, such classification shall be shared pro rata between such handlers in ratio to the quantity the handlers transferred to the nonpool plant.

Since the quantities of skim milk and butterfat involved would be treated as direct transfers between pool plants, these items would not be included in the allocation procedure for receipts from nonpool plants.

3. *Level of Class II price.* The Class II price should be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported by the U.S. Department of Agriculture, adjusted to a 3.5 percent butterfat test, but not to exceed a revised butter-powder formula described herein.

At the present time, the Class II price is based on a butter-powder formula with a deduction of 5 cents for the months of March through June.

The cooperative association proposed that the Class II price be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the months of August through February, and 10 cents less in the months of March through July. Proponents also requested that the price not exceed the present butter-powder formula price plus 10 cents.

The proponent cooperative association assumes the major responsibility for handling any reserve milk not accepted at pool plants. In 1964 and 1965, milk of the cooperative's members disposed of to nonpool plants amounted to 18.9 and 25.4 million pounds or 53 and 62 percent, respectively, of the Class II milk of the market. Most of the other Class II milk in the market was utilized at pool plants. Milk moved off the market by the association was delivered primarily to a manufacturing plant at Sulphur Springs, Tex.

The association stated that the Minnesota-Wisconsin manufacturing milk price, with proposed modifications, would better represent the value of Class II milk in this market than the present price formula. Prices paid at nonpool plants for milk delivered by the association have exceeded the order Class II prices. Average prices received at the Sulphur Springs plant exceeded the order Class II prices in 1964, 1965 and the first 10 months of 1966, by 24 cents, 34 cents, and 44 cents, respectively.

The formula proposed by the association would have produced prices in 1964, 1965 and the first 10 months of 1966 which would have exceeded the present Class II prices by 6.1 cents, 9.2 cents and 10.6 cents, respectively. The association did not support a Class II formula as high as the prices received at nonpool outlets because of handling charges incurred.

The price level now paid by regulated plants for Class II milk does not reflect the full value of such milk as delivered to plants. The price for manufacturing milk should be at a level which will provide the highest possible returns to producers in the market while at the same time encouraging the orderly marketing of reserve milk. A price formula using the Minnesota-Wisconsin price but not to exceed a representative butter-powder value would provide a price more closely representing the value of the milk than the existing formula, and would allow for orderly disposition of reserve milk.

The particular butter-powder formula here adopted would be the Chicago butter price multiplied by 4.2, plus the spray process nonfat dry milk price per pound multiplied by 8.2, less 48 cents. The Minnesota-Wisconsin series, limited by this butter-powder ceiling would have produced prices of $3.16, $3.22 and $3.72 in 1964, 1965 and the first 10 months of 1966, respectively. These prices would have been higher than the present Class II formula by 9.7 cents, 10.6 cents and 11 cents, respectively.

The use of the Minnesota-Wisconsin manufacturing milk price as a major component of the price formula is founded on the premise that in the highly competitive dairy industry average prices which are paid in areas where there is substantial competition for manufacturing milk provides as good a measure of its value as can be obtained. The Minnesota-Wisconsin price series is representative of prices paid to farmers for about one-half of the manufacturing grade milk sold in the United States. In Minnesota about 84 percent of the milk sold off farms is of manufacturing grade and in Wisconsin, about 58 percent.[1] There are many plants in these States which are competing for such milk supplies. This price series reflects a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. Further, it reflects the supply and demand of manufactured dairy products within a highly coordinated marketing system which is national in scale. Milk products which are manufactured by handlers in the Northern Louisiana market compete within this system.

The use of a butter-powder price as a ceiling on the Class II price would insure that the Class II price will continue to reflect the product values of butter and powder in the event of an undue divergence in the relationship between such values and the Minnesota-Wisconsin prices. Recognition should be given to the possibility that a particular segment of the manufactured milk industry may be influenced occasionally by certain supply-demand conditions not affecting the remainder of the industry. Such conditions may not always be reflected sufficiently in the Minnesota-Wisconsin price series. A comparable price ceiling is used in a number of Federal order markets in connection with the use of the Minnesota-Wisconsin price for pricing milk in manufacturing uses similar to Class II uses in the Northern Louisiana market.[2]

The cooperative association's request that 10 cents be deducted from the basic formula during the months of March through July in determining the Class II price is denied. Proponents were concerned that the milk supplies available during the months of flush production might be great enough to depress the manufacturing milk prices paid by nonpool plants below the butter-powder formula.

A need for a 10-cent deduction in March through July was not established. During March through July 1964 the price received at the nonpool plant exceeded by 10 cents the formula herein adopted, by 19 cents in 1965, and by 31 cents in 1966. The improvement of prices obtainable at nonpool outlets relative to the adopted formula suggests that normally the milk could be disposed of without loss.

4. *Exemption of milk plants operated by governmental agencies.* A milk plant operated by a governmental agency should be exempt from all provisions of this order.

The proponent cooperative association requested that the dairy plant operation of Louisiana Technical College be exempt from the provisions of the Northern Louisiana Federal milk order.

The College maintains a dairy herd and a processing plant in connection with the research and educational functions. Milk that is not needed for research projects is disposed of in fluid form through campus cafeterias or manufactured into ice cream, cottage cheese or other dairy products. During those periods when students are on vacation, the unneeded production is sold to the cooperative association. During the school year relatively small quantities of supplemental milk are needed and are obtained from the cooperative association.

The Technical College is an example of a governmental institution which, insofar as its milk production, processing and disposition are concerned, represents a relatively self-contained opera-

[1] Official notice is taken of the "Supplement for 1963–64 to Dairy Statistics through 1960," Statistical Bulletin No. 303, Economic Research Service, USDA, June 1965.

[2] Official notice is taken of Federal Orders No. 131, 9, 35, 47, 49, 36, 41, 40, 43, 134, 8, and 48 for the Central Arizona, Clarksburg, Columbus, Fort Wayne, Indianapolis, Northeastern Ohio, Northwestern Ohio, Southern Michigan, Upstate Michigan, Western Colorado, Wheeling, and Youngstown-Warren markets.

tion with only small quantities of milk interchanged with the other parties in the market. Thus, its milk production does not represent a supply for the rest of the market, nor does its milk uses represent anything but minor use of market milk supplies. In these circumstances, there is not substantial basis for including the establishment under full regulation.

In most months the College has been exempt from full regulation by virtue of qualifying as a producer-handler. In some months, however, it became fully regulated because of receiving milk from dairy farmers. To maintain status as a producer-handler the College would need to limit its source of supply for Class I milk to its own farm production and transfers from pool plants.

The order should be amended in a manner to exempt the milk handling operation of the Technical College from all regulation. At the same time, it should be provided that the College may dispose of its excess milk to handlers in the market or receive supplemental supplies from pool plants, but in a manner which does not interfere with the operation of the order. The order should provide that milk received at a pool plant from such an institution be assigned first to Class II in the pool plant. This is proper, since it clearly represents surplus to the institution's production, processing, and consumption operations and does not represent a reliable supply for the market.

Further, the Louisiana Technical College (and similar institutions) may at times need to purchase supplemental supplies from handlers who would be regulated by the order. It may reasonably be expected that purchases in the form of fluid milk products would be needed and used for Class I purposes. The order should provide, therefore, that fluid milk products transferred or diverted from pool plants to an exempt plant operated by a governmental agency be classified as Class I.

An exempt plant operated by a governmental agency could receive supplemental milk from regulated handlers either by shipments from pool plants or by a diversion of a producer's milk from the farm. A dairy farmer delivering his milk to an exempt governmental plant would not qualify as a producer, however, unless such delivery was accounted for by a regulated handler as diverted milk.

In addition to the Louisiana Technical College, there are other State agencies which operate milk plants. The record is not clear with respect to their identity or to the operation of these milk plants. Further, governmental agencies at other than the State level may undertake to operate plants that utilize their own herd production and receipts from other sources. Ordinarily milk produced and sold by a governmental agency would be largely for purposes within the agency. Regulation of such an operation could be disruptive to the purposes of such agencies dairy operations and would not serve any useful purpose in effective order regulation for the market. It is concluded, therefore, that the exemption should extend to all dairy plants operated by governmental agencies.

5. *Deletion of the base and excess plan.* The "base and excess" plan for distributing returns for milk among producers no longer tends to effectuate the purposes of the Agricultural Marketing Agreement Act and should be discontinued.

The base and excess plan was incorporated in the order to provide incentive to producers to reduce the fluctuations in the amount of milk supplied to the market throughout the year. The plan permits each producer to establish a base according to his deliveries to pool plants in September, October, November, and December of each year. In each of the subsequent months of February through July, separate uniform prices are computed for "base" milk and "excess" milk under provisions that allot Class I uses first to base milk. Each producer is therefore paid a uniform price for base milk and a uniform price for excess milk reflecting in each case the quantity of base and excess in the milk he has delivered. In all other months, producers receive the marketwide uniform price for all milk delivered to pool plants.

A producer association representing about 70 percent of the producers supplying the market proposed that the base and excess plan be removed from the order. There was no testimony at the hearing opposing such proposal.

The cooperative complained that the present base and excess plan under the Federal order has some tendency to result in undesirable production patterns among members. The association also operates its own base plan which is effective all 12 months of the year. This, the association stated, neutralizes the tendency of some producers to increase fall production more than needed during the Federal order base-making period. The existence of two base-excess plans, however, results in duplication of accounting and confusion.

The market has achieved the objective of relatively even production throughout the year. Changed circumstances in the market including the general adoption of bulk tank handling on the farm and other production technology will help dairy farmers to maintain such even production. Under the circumstances, the base-excess plan has served its purpose, but is no longer needed.

It is concluded that the base and excess plan should be deleted from the order. It should be deleted at the earliest possible date prior to the next base payment period of February 1967 through July 1967 in order that producers will know in advance that payments during these months will be at the uniform price rather than base and excess prices.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order as amended regulating the handling of milk in the Northern Louisiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Section 1096.30(a)(1)(iv) is revised to read as follows:

§ 1096.30 Reports of receipts and utilization.

(a) * * *

(1) * * *

(iv) Inventories of fluid milk products on hand at the beginning and end of the month, separately in bulk and in packaged form.

* * * * *

2. In § 1096.41, paragraphs (a) and (b)(3) are revised to read as follows:

§ 1096.41 Classes of utilization.

* * * * *

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraph (b) (2) and (4) of this section;

(2) Contained in inventory of packaged fluid milk products on hand at the end of the month; and

(3) Not specifically accounted for as Class II milk; and

(b) *Class II milk.* * * *

(3) In inventories of fluid milk products in bulk form on hand at the end of the month;

* * * * *

3. Section 1096.44(b) is revised.

4. Section 1096.44(d)(3) is revised by renumbering subdivisions (iii) and (iv) as (iv) and (v), respectively, and adding a new subdivision (iii) immediately after subdivision (ii).

5. The introductory text of § 1096.44 (e) is revised.

Paragraphs (b) and (d)(3) (iii), (iv), and (v) and the introductory text of paragraph (e) of § 1096.44 read as follows:

§ 1096.44 Transfers.

* * * * *

(b) As Class I milk if transferred from a pool plant to a producer-handler or transferred or diverted to a plant exempt pursuant to § 1096.60(b);

* * * * *

(d) * * *

(3) * * *

(iii) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the skim milk and butterfat in transfers of fluid milk products from the nonpool plant to a pool plant(s), classified as if it were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II utilization indicated: *Provided*, That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat covered by this subdivision being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers according to the respective quantities of fluid milk products each handler transferred to the nonpool plant unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification.

(iv) Class I utilization in excess of that assigned pursuant to subdivisions (i), (ii), and (iii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(v) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

* * * * *

6. In § 1096.46(a), a new subparagraph (2–a) is added immediately following subparagraph (2) and subparagraphs (3)(iii) and (5) are revised, all of which to read as follows:

§ 1096.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(2–a) Except for the first month this provision is effective, subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(3) * * *

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order or from a plant exempt pursuant to § 1096.60(b).

* * * * *

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of bulk fluid milk products (and, for the first month subparagraph (2–a) of this paragraph is effective, the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

* * * * *

7. Section 1096.51(b) is revised to read as follows:

§ 1096.51 Class prices.

* * * * *

(b) *Class II milk price.* The Class II milk price shall be the basic formula price computed pursuant to § 1096.50, but not to exceed a price computed as follows:

(1) Multiply by 4.2 the Chicago butter price;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

8. Section 1096.60 is revised to read as follows:

§ 1096.60 Exemptions.

(a) Producer handler: Sections 1096.40 to 1096.46, 1096.50 to 1096.54, 1096.65 to 1096.67, 1096.70 to 1096.75, 1096.80 to 1096.86, inclusive, shall not apply to a producer handler; and

(b) None of the provisions of this part except § 1096.21 shall apply to a plant operated by a governmental agency.

9. Section 1096.70(c) is revised to read as follows:

§ 1096.70 Computation of the net pool obligation of each pool handler.

* * * * *

(c) Add the amounts computed under subparagraphs (1) and (2) of this paragraph:

(1) Multiply the difference between the appropriate Class II milk price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1096.46(a)(5) and the corresponding step of § 1096.46(b); and

(2) Multiply the difference between the appropriate Class I milk price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1096.46(a)(2–a) and the corresponding step of § 1096.46(b). If the Class I milk price for the current month is less than the Class I milk price for the preceding month, the result shall be a minus amount;

* * * * *

§§ 1096.18, 1096.19 [Revoked]

Base-excess plan. 10. Sections 1096.18 and 1096.19 are revoked.

§ 1096.27 [Amended]

11. In § 1096.27(j)(2) delete "or 1096.-73".

12. Section 1096.27(l)(2) is revoked.

13. Section 1096.30(a)(1)(i) is revised to read as follows:

§ 1096.30 Reports of receipts and utilization.

(a) * * *

(1) * * *

(i) Receipts of milk from producers, including such handler's own production;

* * * * *

14. Section 1096.31(c) is revised to read as follows:

§ 1096.31 Payroll reports.

* * * * *

(c) The number of days, for which milk was received from such producer;

* * * * *

§§ 1096.65, 1096.66, 1096.67 [Revoked]

15. The subheading, "Determination of Base" and §§ 1096.65, 1096.66, and 1096.67 are revoked.

16. Section 1096.72(b) is revised to read as follows:

§ 1096.72 Computation of weighted average price and uniform price.

* * * * *

(b) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price" or the "uniform price" for producer milk.

§ 1096.73 [Revoked]

17. Section 1096.73 is revoked.

18. Section 1096.80(b) is revised and paragraph (c) is revoked as follows:

§ 1096.80 Time and method of payment for producer milk.

* * * * *

(b) On or before the 15th day after the end of each month for milk received during the month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1096.72, subject to the butterfat and location differentials computed pursuant to §§ 1096.74 and 1096.75, respectively; and

(1) Less payment made pursuant to paragraph (a) of this section;

(2) Less marketing service deduction pursuant to § 1096.85;

(3) Plus or minus adjustments pursuant to § 1096.84 for errors in previous payments made to such producers; and

(4) Less proper deduction authorized by such producer.

(c) [Revoked]

* * * * *

Signed at Washington, D.C., on January 13, 1967.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-589; Filed, Jan. 17, 1967; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

THIABENDAZOLE

Notice of Proposed Rule Making

Based on available information, the Commissioner of Food and Drugs has concluded that § 121.260 of the food additive regulations should be amended to provide that animal feeds containing thiabendazole not contain bentonite. Information establishes that the presence of bentonite in feeds interferes with the method of analysis for thiabendazole and thereby influences control over the safety and effectiveness of thiabendazole-containing feeds.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), it is proposed that § 121.260 be amended by revising the introduction to paragraph (c) to read as follows:

§ 121.260 Thiabendazole.

* * * * *

(c) The additive is used or intended for use in feeds that do not contain bentonite and as otherwise described, as follows:

* * * * *

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: January 11, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-593; Filed, Jan. 17, 1967; 8:49 a.m.]

Public Health Service

[42 CFR Part 35]

HOSPITAL AND STATION MANAGEMENT

Fees and Charges for Copying, Certification, Search of Records and Related Services

Notice is hereby given that the Surgeon General of the Public Health Service, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend the regulations in Part 35 of Title 42, Code of Federal Regulations, by adding a new section to Subpart A, establishing fees to be charged for the furnishing of abstracts of medical records and related services. The purpose of this new section is to prescribe an equitable and uniform system of charges for services which result in special benefits to the recipients thereof greater than those accruing to the public at large. Interested persons may submit written data, views, or arguments in regard to the proposed regulation to the Surgeon General, Public Health Service, Building 31, Room 3-A-50, 9000 Rockville Pike, Bethesda, Md. 20014. All relevant material received not later than 30 days after publication of this notice will be considered.

1. Subpart B of Part 35 is amended by the addition of a new § 35.17, to read as follows:

§ 35.17 Fees and charges for copying, certification, search of records and related services.

A prescribed fee, in accordance with the schedule in paragraph (c) of this section, shall be collected for each of the listed services.

(a) *Application for services.* Any person requesting (1) a copy of a clinical record, clinical abstract, or other document containing clinical information; or (2) a certification of a clinical record or document; or (3) a search of clinical records, shall make written application therefor to the Public Health Service facility having custody of the subject matter involved. Such application shall state specifically the particular record or document requested, and the purpose for which such copy or document is desired to be used. The application shall be accompanied by a deposit in an amount equal to the prescribed charge for the service rendered. Where it is not known if a clinical record or other document is in existence, the application shall be accompanied by a minimum deposit of $2.50.

(b) *Authorization for disclosure.* The furnishing of copies of PHS records containing confidential clinical information must comply with the requirements of Part I, Title 42, Code of Federal Regulations, governing authorization for the disclosure of such information.

(c) *Schedule of fees:*

(1) Photocopy reproduction of a clinical record or other document (through use of facility equipment):	
(a) Processing (searching, preparation of record and use of equipment), first page	$3.25
(b) Each additional page	.25
(2) Certification, per document	.25
(3) Unsuccessful searching, per hour (minimum charge 1 hour)	2.50
(4) Clinical abstracts, per request	3.00
(5) Arranging commercial duplication of a clinical record, per request	* 5.50

(6) If the requested material is to be transmitted by registered mail, airmail, or special delivery mail, the postal fees therefor shall be added to the other fees provided above, unless the applicant has included proper postage or stamped return envelopes for this purpose.

* The private concern which duplicates records for an applicant will make a separate charge therefor and will bill the applicant directly.

(d) *Waiver of fee.* The prescribed fee may be waived, in the discretion of the medical officer in charge, under the following circumstances:

(1) When the service or document is requested by another agency of the Federal Government for use in carrying out official Government business.

(2) When a clinical record is requested for the purpose of providing continued medical care to a Service beneficiary by a non-Service physician, clinic, or hospital, in which case the record will be forwarded only to the physician, clinic, or hospital concerned.

(3) When the service or document is requested by an attorney in the prosecution of a Service beneficiary's personal injury claim against a third person, involving the concurrent assertion of a Government medical care claim under 42 U.S.C. 2651-2653. In such case, the service or document requested will be furnished only upon compliance with all additional requirements for the release of records in third party recovery cases, including the proper execution of form PHS-4686, Agreement to Assign Claim Upon Request.

(4) When the service or document is requested by, and furnished to, a Member of Congress for official use.

(5) When the service or document is requested by, and furnished to, a court in lieu of the personal court appearance of an employee of the Public Health Service.

(6) When the service or document is required to be furnished free in accordance with a Federal statute or an Executive order.

(7) When the furnishing of the service or document requested without charge would be an appropriate courtesy to a foreign country or international organization.

(Sec. 501, 65 Stat. 290; 5 U.S.C. 140; sec. 215, 58 Stat. 690, as amended; 42 U.S.C 216)

Dated: December 27, 1966.

[SEAL] WILLIAM H. STEWART,
Surgeon General.

Approved: January 11, 1967.

WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 67-591; Filed, Jan. 17, 1967; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 73]

[Airspace Docket No. 66-SW-55]

TEMPORARY RESTRICTED AREA

Proposed Designation

The Federal Aviation Agency (FAA) has under consideration a proposal to amend the Federal Aviation Regulations to designate temporary restricted airspace in an area extending from Mountain Home, Ark., into southwestern Arkansas and southeastern Oklahoma.

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, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Post Office Box 1689, Fort Worth, Tex. 76101. 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 FAA has been requested by the Department of the Air Force in behalf of Joint Task Force Two (JTF-2) to designate temporary restricted airspace as described herein to electronically test and evaluate airborne weapons and delivery systems and reconnaissance sensor systems for the Air Force, Navy, Marine Corps, and Army, and the capability of pilots to navigate while flying as low as possible at speeds ranging from 175 to 600 knots. JTF-2 has stated that the extremely low altitudes and high speeds of participating aircraft to be attained while the pilots are concentrating on the difficult task of low level navigation and target acquisition would present a hazard to nonparticipating aircraft. Moreover, the safety of the participating pilots and the efficiency of the test evaluation requires that the tests be conducted without the requirement to see and avoid other aircraft. In this regard it is stated that the flights would deviate from the general operating and flight rules in Part 91 of the Federal Aviation Regulations and that designation of restricted airspace is necessary to assure the safety of the public and the participating aircraft. Further, the test objectives would be seriously compromised if the test aircraft were required to comply with the general operating and flight rules. JTF-2 has also advised that information obtained from this test will assist in the development and refinement of low level aerial warfare techniques, equipment, and doctrine. The result will further the survivability of combat personnel and effectiveness of weapons in situations of a general or limited war.

The test is programed to commence on July 1, 1967, and extend through October 15, 1967; however, JTF-2 would like to commence certain instrumented trial and calibration flights as early as April 15, 1967. Therefore, JTF-2 is requesting designation of the restricted area as early as possible.

The test flights will originate at Little Rock Air Force Base, Ark., Monday through Saturday. Both day and night operations are planned, but the restricted areas would not be used more than 9½ hours daily. Each flight will proceed at low altitude, normally below 500 feet, from Norfork Reservoir Dam through one of two navigational corridors for approximately 150 nautical miles. This portion of each flight is a navigational test of the pilot's ability to follow an unmarked course using only visual landmarks such as bridges, dams, or structures for en route navigational guidance to a target area. These corridors lead to areas where the pilot will commence reconnaissance and/or simulated weapons delivery runs on specified targets such as surface to air missile sites, bivouac areas, railroad bridges, truck convoys, etc., strategically placed along the corridors. At the termination of the course, the aircraft will return to Little Rock Air Force Base by the use of normal en route procedures. No ordnance will be carried. Communications will be established as required between the using agency and FAA traffic control and advisory elements to insure maximum utilization of the restricted areas by nonparticipating aircraft when test scheduling permits and when not in use for the purpose designated. Specifically, JTF-2 will insure that the centers are notified promptly whenever daily test operations are completed.

There will be approximately 20 sorties daily with a total of 650 completed flights. It is anticipated that some flights will not be completed due to mechanical failures, weather, or other factors. There will be three C-130 aircraft orbiting at 23,000 feet to record the results of each test run, to monitor the test area and to abort a run if necessary.

Ground and aerial surveys will be conducted in the test area to identify and mark obstructions and hazards as required to assure recognition by pilots. The courses are located over sparsely populated areas insofar as possible.

Should restricted airspace be designated, JTF-2 will enter a joint-use agreement with the controlling agency, the Memphis Air Route Traffic Control Center, and would release the entire area, or portions thereof, to the Center when not in use for the purpose designated. Provision would be made for civil and nonparticipating military pilots to contact the Test Operations Center by reverse charge telephone calls for authorization to conduct flights within the area, or coordinate crossing traffic. Approval of such requests would be contingent upon the activities in progress on the route of the proposed flight.

JTF-2 will release the proposed restricted areas to the controlling agency whenever the weather does not meet testing requirements. The restricted areas will not be called up whenever the cloud base is less than 1,000 feet above the areas and the visibility is below 3 statute miles. Observations of the ceiling and visibility will be made at multiple locations within the corridors by qualified weather observers.

JTF-2 will also conduct a comprehensive public information program prior to and throughout the test to seek complete public understanding, cooperation, and comprehension of the importance of the test to the national defense effort. The program will include the briefing of State officials, local governments, law enforcement agencies, and civic organizations. News releases will be issued to newspapers, radio, and television stations defining the test area and advising the public on the purpose and progress of the test program. Wherever practicable, daily operational schedules will be provided to news media in the vicinity of the test area for dissemination to the public. In addition, an extensive system of road signs will be provided in coordination with the highway departments. Military representatives will visit people within the test area prior to and during the exercise to insure that there is a clear understanding of the necessity for conducting these tests and to coordinate with general aviation and other activities insofar as possible.

The proposal will be placed on the agenda of the ATC advisory committee meetings to be held at Fort Worth and Memphis ARTC Centers. The dates of each meeting will be publicized by the appropriate FAA office.

JTF-2 has emphasized that the safety of all aircraft and of persons and property on the ground would be a primary consideration during test operations.

If this action is taken, temporary restricted areas will be designated as follows:

1. Navigational courses.

Boundaries: The airspace 4.6 statute miles on each side of two courses defined by coordinates as follows:

Navigational Course No. 1

Beginning at latitude 36°15'00" N., longitude 92°15'00" W.; thence to latitude 35°40'-15" N., longitude 92°51'35" W.; thence to latitude 35°21'00" N., longitude 93°19'45" W.; thence to latitude 34°44'00" N., longitude 93°39'00" W.; thence to latitude 34°-23'25" N., longitude 94°02'30" W.; thence to latitude 34°02'00" N., longitude 94°34'25" W.

Navigational Course No. 2

Beginning at latitude 36°15'00" N., longitude 92°15'00" W.; thence to latitude 35°-39'50" N., longitude 93°04'00" W.; thence to latitude 35°09'54" N., longitude 93°40'24" W.; thence to latitude 34°58'40" N., longitude 93°46'30" W.; thence to latitude 34°-40'30" N., longitude 94°19'40" W.; thence to latitude 34°20'20" N., longitude 94°39'25" W.; excluding the airspace within 3 statute miles of the Clarksville, Ark., Airport.

Designated altitudes: Surface to 2,500 feet MSL from point of beginning to a line drawn from latitude 36°00'15" N., longitude 92°44'-00" W. to latitude 35°49'45" N., longitude 92°35'00" W.; thence surface to 3,600 feet MSL to the south edge of V-74 north alternate; thence surface to 4,000 feet MSL to the ends of both courses.

Time of designation: Continuous, Monday through Saturday, April 27, 1967, through October 15, 1967.

Controlling agency: FAA, Memphis ARTCC.

Using agency: Joint Task Force 2, Sandia Base, N. Mex.

2. North target area.

Boundaries: The airspace 4.6 statute miles on each side of the course defined by coordinates as follows:

Beginning at latitude 34°23'10" N., longitude 94°57'05" W.; thence to latitude 34°39'-30" N., longitude 96°00'45" W.; thence describing an arc 3.6 statute miles in radius centered at latitude 34°36'30" N., longitude 96°00'45" W.; to latitude 34°33'30" N., longitude 96°00'45" W.; thence to latitude 34°-19'15" N., longitude 95°04'00" W.

Designated altitudes: Surface to 3,300 feet MSL east of, and surface to 2,500 feet MSL west of a line from latitude 34°38'15" N., longitude 95°39'00" W. to latitude 34°25'30" N., longitude 95°44'25" W.

Time of designation: Continuous, Monday through Saturday, April 27, 1967, through October 15, 1967.

Controlling agency: FAA, Memphis ARTCC.

Using agency: Joint Task Force 2, Sandia Base, N. Mex.

3. South target area.

Boundaries: The airspace 2 statute miles on each side of a course defined as follows:

Beginning at latitude 34°02'45" N., longitude 94°47'30" W.; thence NW along Oklahoma State Highway No. 3 to the arc of a 3 statute mile circle centered at latitude 34°13'35" N., longitude 95°36'50" W.; thence clockwise along this arc to Oklahoma State Highway No. 3; thence W along Oklahoma State Highway No. 3 to latitude 34°15'05" N., longitude 95°49'00" W.; thence to latitude 34°07'35" N., longitude 95°49'05" W.; thence to latitude 34°07'35" N., longitude 95°37'10" W.; thence to latitude 34°06'10" N., longitude 95°37'10" W.; thence to latitude 34°05'00" N., longitude 95°32'15" W.; thence to latitude 34°04'45" N., longitude 95°28'15" W.; thence to latitude 34°00'30" N., longitude 95°22'25" W.; thence along U.S. Highway No. 79 to latitude 33°56'00" N., longitude 94°53'00" W.

Designated altitudes: Surface to 2,000 feet MSL.

Time of designation: Continuous, Monday through Saturday, April 27, 1967, through October 15, 1967.

Controlling agency: FAA, Memphis ARTCC.

Using agency: Joint Task Force 2, Sandia Base, N. Mex.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on January 16, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-662; Filed, Jan. 17, 1967; 8:50 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Antidumping—ATS 643.3–b]

TETRAMETHYLTHIURAM DISULFIDE (TMTD) FROM NETHERLANDS

Withholding of Appraisement Notice

JANUARY 12, 1967.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect, from information presented to me, that the purchase price of Tetramethylthiuram Disulfide (TMTD) from Netherlands, sold by N. V. Chefaro Maatschappij, Kelleweg 8, Rotterdam, Holland, is less, or likely to be less, than the foreign market value as defined, respectively, in sections 203 and 205 of that Act, as amended (19 U.S.C. 162 and 164).

In accordance with the provisions of § 14.9(a) of the Customs Regulations (19 CFR 14.9(a)), customs officers are being directed to withhold appraisement of Tetramethylthiuram Disulfide (TMTD) imported from Netherlands, sold by N. V. Chefaro Maatschappij, Kelleweg 8, Rotterdam, Holland. This withholding order is limited to the importations from and transactions of and with N. V. Chefaro Maatschappij, Kelleweg 8, Rotterdam, Holland. The investigation will continue as to this firm only, unless information requiring that it be expanded is received before the final disposition of this case. All importations entered, or withdrawn from warehouse, for consumption, after the date of publication of this notice in the FEDERAL REGISTER are subject to this order.

The information alleging that the merchandise under consideration was being sold at less than fair value within the meaning of the Antidumping Act was received in proper form on June 20, 1966. This information was the subject of an "Antidumping Proceeding Notice" which was published on page 12606 of the FEDERAL REGISTER of September 24, 1966, pursuant to § 14.6(d), Customs Regulations (19 CFR 14.6(d)).

This notice is published pursuant to § 14.6(e) of the Customs Regulations (19 CFR 14.6(e)).

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67–584; Filed, Jan. 17, 1967; 8:49 a.m.]

[T.D. 67–32]

CUSTOMS ACCOUNTING SYSTEM

Automation

A notice of proposed rule making was published in the FEDERAL REGISTER on August 27, 1966 (31 F.R. 11394), and supplemented in the FEDERAL REGISTER on September 17, 1966 (31 F.R. 12409–12412), designed to provide for automation of the appropriation and revenue accounting system of the Bureau of Customs. This notice stated that prior to taking action on the proposal, consideration would be given to all relevant data, views, or arguments submitted in writing to the Commissioner of Customs.

The following tabulation is published so that all interested persons and firms may have the answers to the questions received by the Bureau of Customs.

Question	Answer	Comment
1. Must a customs Form 5101, Entry Record, be submitted for each owner of merchandise on a consolidated entry?	No	Only one customs Form 5101 is required for a consolidated entry. No owner's number will be shown.
2. Will consolidated entries be continued?	Yes	
3. Can customs Form 5101 be overprinted or privately printed?	Yes	Privately printed forms must, however, meet the Bureau of Customs specifications.
4. On customs Form 5101 can the owner's identification number be shown for repetitive clients and omitted for one-time importers?	Yes	For an infrequent importer, an identification number need not be given unless it is known or readily available.
5. Will the Bureau of Customs make use of the owner's identification number on a broker's entry?	Yes	Liquidated entries on which the broker is the importer of record will be listed and identified by owner's numbers on the courtesy notice of liquidation when such owner's numbers are supplied on the Forms 5101.
6. Will the importer number be the Internal Revenue Service number if the importer has one?	Yes	
7. Will customs Form 5101 be made compatible for typing with the entry?	No	The data for verification of key punching would be obliterated and in addition, customs Form 5101 is to be a three-part carbon card form too thick for combined typing with entry forms.
8. Must an importer's identification number be applied for by each importer?	Yes	An application is to be made on customs Form 5106 which is to be the input media to establish a master address file in the computer.
9. Will an importer's identification number be assigned by Customs, and if so, where?	Yes	If no Internal Revenue Service number or social security number is available, it will be assigned at the port of entry.
10. Will the distribution of copies of customs Form 5101 under the new system be the same as under the present system?	No	A receipt cannot be given on revised customs Form 5101 as is the present practice. Under the new system the usual receipt form will be an extra copy of the entry. The new system prescribes the following distribution: Original—to the Bureau of Customs Data Center to establish control of the entry; Duplicate—for missing documents; Triplicate—to Data Center for "No Change" liquidations.
11. Will customs Form 5101 be on the same paper stock as at present?	No	It will be a carbon interleaved IBM card, with the first and second copy on paper stock.
12. Will customs Form 5104, Cash Receipt, be used for miscellaneous consumption entries and possibly be made compatible with the typing of the entry forms?	No	Customs Form 5104 will not be used for collections on formal entries.
13. Can the single suffix provided for the importer number be expanded to two digits?	No	The suffix may be any number from 1 to 9 or any letter of the alphabet excluding the letters O, Z, and I. This will permit the designation of approximately 30 separate offices of the importer.
14. Will the service billed for be identified on customs Form 6084, Notice of Amount Due?	Yes	Bills resulting from liquidation will identify the entry number and the additional duty and/or tax due. Reimbursable bills will show vessel name, assignment number, etc.
15. Will the establishment of the importer's identification number system require brokers to maintain additional records?	No	See answer to queston 24. It may be desirable, however, to obtain a duplicate copy of customs Form 5106, to be filed in alphabetical order or in number sequence by owner's identification number, to provide a cross reference between the names of clients and their identification numbers.
16. Can the customs Form 5101 be eliminated?	No	It is used as input media to the computer to: (1) establish initial control over formal dutiable entries, (2) prepare the bulletin notice of liquidation for no change entries, (3) provide the importer with a courtesy copy of the notice of liquidation. Other methods were considered, but customs Form 5101 was determined to be the most practicable medium for obtaining the various inputs to the computer described above.
17. Is there a reason for making the customs Form 5101 a different document than the entry?	Yes	These forms are not normally submitted at the same time, and therefore compatibility is not essential.
18. Can customs Form 3347, Declaration of Owner, be made compatible for typing with the entry?	No	These forms are not submitted at the same time, so compatibility is not essential.
19. Can customs Form 4811, Special Address Notification, and customs Form 5106, Report of Importer Number or Notice of Change of Address, be made compatible?	No	
20. Can refunds be sent directly to the importer of record, and bills and notices of liquidation sent to his broker?	Yes	Customs Form 4811 has been revised to permit the importer to authorize any mailing distribution he wishes for each of these items.

Question	Answer	Comment
21. Can duplicate copies of bills, and notices of liquidation be issued to brokers on a routine basis?	No	Our automated system does not provide for duplicates, but customs Form 4811 permits distribution of originals according to the wishes of the importer of record.
22. Can the amount of increase or refund be obtained from the courtesy notice of liquidation?	Yes	The difference between the initial amount paid and the liquidated amount, both of which are shown on the courtesy notice, represents the amount of the increase or refund.
23. As the notice of refund is being abolished, will some type of remittance advice take its place?	Yes	A separate check will be issued for each refund which will show the related entry number. Also, as stated in answer to question 22, the courtesy notice of liquidation will serve to identify entries on which refunds will be paid.
24. Can the name and address of the importer be shown on the courtesy notice of liquidation for identification purposes, and is it possible to show the importer's own reference number for the transaction involved on a bill, check for refund, or notice of liquidation?	No	Our programing and form design does not provide for this at present, but it will be given careful future consideration. The one-time preparation of a cross-reference index of customer names and identification numbers should accomplish the identification purpose.
25. Can a change in disposition of checks for refunds, bills, or notices of liquidation be made after entry has been made, and can a change or error in the preparation of customs Form 5101 be corrected prior to liquidation of the entry?	Yes	A new customs Form 4811, a Special Address Notification, which will have the effect of amending a Form 4811 already on file may be executed and filed as frequently as the importer wishes. A Form 4811, however, cannot be executed to apply only to specific entries. A new customs Form 5101 may be filed at any time after entry but prior to liquidation and will be treated as superseding the Form 5101 previously filed for the particular transaction.
26. Can mail for different branches with different suffix codes be sent to one central address?	Yes	If the same mailing address is given on customs Form 5106 for the different branches.

After careful consideration of all the responses received, automation of the customs accounting system has been approved and the issuance of regulations and schedule for implementation on a region-by-region basis will be published in Treasury decision 67-33.

The posting of bulletin notice of liquidation provided for in § 16.2 of the Customs Regulations (19 CFR 16.2) shall continue to constitute full compliance with the requirement for giving notice of liquidation under section 505, Tariff Act of 1930, as amended (19 U.S.C. 1505).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[F.R. Doc. 67-577; Filed, Jan. 17, 1967; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Fairbanks 035266]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 9, 1967.

The General Services Administration has filed an application, Serial Number Fairbanks 035266, for withdrawal of the lands described below, from all forms of appropriation under the public lands laws, including the mining laws, mineral leasing laws, grazing laws, and disposal of material under the Materials Act of 1947, as amended. The applicant desires the land for operation of a Border Station.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the District and Land Office Manager, Bureau of Land Management, Department of the Interior, Post Office Box 1150, Fairbanks, Alaska 99701.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn as requested.

The determination of the Secretary of the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The land involved in the application is:

A strip of land extending 350 feet on each side of the centerline of the Alaska Highway from U.S. Survey 4404 Southeasterly to the United States-Canada international line. Containing 17.20 acres.

BURTON W. SILCOCK,
State Director.

[F.R. Doc. 67-575; Filed, Jan. 17, 1967; 8:48 a.m.]

[Sacramento 050595]

CALIFORNIA

Notice of Partial Termination of Proposed Withdrawal and Reservation of Land

JANUARY 6, 1967.

Notice of a Forest Service, U.S. Department of Agriculture, proposed withdrawal, Sacramento 050595, for withdrawal and reservation of lands for a recreation site, was published as F.R. Doc. 62-11996 on pages 12004, 12005, and 12006 of the issue for December 5, 1962. The applicant agency has cancelled its application insofar as it affects the following described land:

MOUNT DIABLO MERIDIAN

TAHOE NATIONAL FOREST

Squaw Valley

T. 16 N., R. 16 E.,
Sec. 32, NW¼NW¼.

Therefore pursuant to the regulations contained in 43 CFR Part 2311, such land, at 10 a.m., on February 10, 1967, will be relieved of the segregative effect of the above-mentioned withdrawal.

The area described contains 40 acres.

R. J. LITTEN,
Chief, Lands Adjudication Section.

[F.R. Doc. 67-551; Filed, Jan. 17, 1967; 8:46 a.m.]

[Montana 1169]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 10, 1967.

The Department of Agriculture, on behalf of the Forest Service, has filed application, Montana 1169, for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid claims.

The applicant desires the land for a tree seed orchard.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, Mont. 59101.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice

will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

LOLO NATIONAL FOREST

PRINCIPAL MERIDIAN, MONTANA

Savenac Nursery, Big Creek Addition

T. 19 N., R. 30 W.,
Sec. 27, S½NE¼, SE¼SW¼, and SE¼.

The area described contains 280 acres.

PARKER N. DAVIES,
Acting Land Office Manager.

[F.R. Doc. 67-552; Filed, Jan. 17, 1967; 8:46 a.m.]

NEVADA

Notice of Filing of Protraction Diagram

JANUARY 10, 1967.

Notice is hereby given that effective at and after 10 a.m., February 16, 1967, the following protraction diagram is officially filed of record in the Nevada Land Office. In accordance with Title 43, Code of Federal Regulations, this protraction will become the basic record for describing the land for all authorized purposes. Until this date and time the diagram has been placed in open file and is available to the public for information only.

NEVADA PROTRACTION DIAGRAM
No. 223

MOUNT DIABLO MERIDIAN

T. 13½ N., R. 44½ E.

Copies of this diagram are for sale at one dollar ($1.00) each by the Nevada Land Office, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89502.

DANIEL P. BAKER,
Land Office Manager.

[F.R. Doc. 67-574; Filed, Jan. 17, 1967; 8:48 a.m.]

[Oregon 013683]

OREGON

Notice of Termination of Proposed Withdrawal and Reservation of Lands; Correction

JANUARY 9, 1967.

In F.R. Doc. 66-13973, appearing at page 16721 of the issue for Friday, December 30, 1966, the description for sec. 17, T. 29 S., R. 7 W., which reads "NE¼SW¼ and SE¼SE¼" should read "NE¼SW¼ and SW¼SE¼."

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 67-553; Filed, Jan. 17, 1967; 8:46 a.m.]

Fish and Wildlife Service

[Depredation Order]

DEPREDATING GOLDEN EAGLES

Order Permitting Taking to Seasonally Protect Domestic Livestock in Certain Texas Counties

Pursuant to authority in section 2 of the Act of June 8, 1940 (54 Stat. 250), as amended, and in accordance with regulations under Part 11, Title 50, Code of Federal Regulations, the Secretary of the Interior has authorized the taking of golden eagles without a permit to seasonally protect domesticated livestock during the period from January 16, 1967, through June 15, 1967, in Texas subject to the following conditions:

1. Golden eagles may be taken without a permit only for the protection of domesticated livestock and only by livestock owners and their agents.

2. Golden eagles may be taken by any suitable means or methods except by the use of poison or from aircraft.

3. Golden eagles or any parts thereof taken pursuant to this authorization may not be possessed, purchased, sold, traded, bartered, or offered for sale, trade or barter.

4. Taking without a permit is authorized only in the following named counties:

El Paso.	Sutton.
Jeff Davis.	Pecos.
Brewster.	Culberson.
Val Verde.	Real.
Uvalde.	Sterling.
Kerr.	Glasscock.
Edwards.	Reagan.
Crockett.	Irion.
Ward.	Tom Green.
Upton.	Coke.
Hudspeth.	Schleicher.
Presidio.	Crane.
Terrell.	Burnet.
Kinney.	McCulloch.
Bandera.	Blanco.
Kimble.	San Saba.

5. Any person taking golden eagles pursuant to this authorization must at all reasonable times, including during actual operations, permit any Federal or State game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require concerning such operations.

ABRAM V. TUNISON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 13, 1967.

[F.R. Doc. 67-585; Filed, Jan. 17, 1967; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

ROER LIVESTOCK AUCTION ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notice at the stockyards as required by said section 302.

Name, location of stockyard, and date of posting

ARIZONA

Roer Livestock Auction, Laveen, Nov. 17, 1966.

GEORGIA

Pearson Livestock Market, Pearson, Nov. 1, 1966.

ILLINOIS

Stutz Arena, Alton, Nov. 28, 1966.

IOWA

Centerville Sale Company, Centerville, Nov. 18, 1966.

TENNESSEE

Cookeville Livestock Company, Inc., Cookeville, Dec. 8, 1966.

TEXAS

Jacksonville Livestock Commission, Jacksonville, Dec. 17, 1966.

WASHINGTON

Britton Bros. Snohomish Auction Market—West Barn, Snohomish, Dec. 1, 1966.
Stockman Livestock Commission, Inc., Torrington, Dec. 21, 1966.

Done at Washington, D.C., this 11th day of January 1967.

CHARLES G. CLEVELAND,
Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 67-588; Filed, Jan. 17, 1967; 8:49 a.m.]

Office of the Secretary

CALIFORNIA, IDAHO, MISSISSIPPI

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of California, Idaho, and Mississippi natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies or other responsible sources.

CALIFORNIA

Monterey.

IDAHO

Bannock.	Caribou.
Bingham.	Clark.
Bonneville.	Power.
Butte.	

MISSISSIPPI

Alcorn.	Webster.

Pursuant to the authority set forth above, emergency loans will not be made

in the above-named counties after June 30, 1967, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 13th day of January 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-590; Filed, Jan. 17, 1967; 8:49 a.m.]

MINNESOTA, MISSISSIPPI, NORTH CAROLINA, UTAH

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Minnesota, Mississippi, North Carolina, and Utah natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MINNESOTA

Kittson.

MISSISSIPPI

Prentiss.

NORTH CAROLINA

Edgecombe.

UTAH

Washington.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1967, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 12th day of January 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-570; Filed, Jan. 17, 1967; 8:47 a.m.]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

ASSISTANT SECRETARY OF DEFENSE (MANPOWER)

Delegation of Authority To Approve Interservice Transfers of Regular Officers

The Secretary of Defense approved the following delegation of authority December 5, 1966:

In accordance with section 133(d) of title 10, United States Code, I hereby delegate to the Assistant Secretary of Defense (Manpower) the authority vested in me by the President to approve the interservice transfer of regular officers under section 716 of title 10, United States Code.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

JANUARY 9, 1967.

[F.R. Doc. 67-571; Filed, Jan. 17, 1967; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN CYANAMID CO.

Notice of Amendment of Petition Regarding Pesticides

Notice was given in the FEDERAL REGISTER of August 27, 1966 (31 F.R. 11402), that a petition (PP 7F0521) had been filed by American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for residues of the insecticide phorate (*O,O*-diethyl *S*-[(ethylthio)methyl] phosphorodithioate) in or on raw agricultural commodities, as follows:

0.5 part per million in or on alfalfa and potatoes.
0.2 part per million in or on corn.
0.05 part per million in or on lettuce, milo, peanuts, and rice.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that the subject petition has been amended to propose the establishment of tolerances for residues of phorate in or on raw agricultural commodities, as follows:

0.5 part per million in or on corn forage and potatoes.
0.1 part per million in or on corn grain (field and sweet), lettuce, peanuts, and rice.

Tolerances in or on alfalfa and milo are no longer proposed.

Dated: January 11, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-594; Filed, Jan. 17, 1967; 8:49 a.m.]

CHEMAGRO CORP.

Notice of Amendment of Petition Regarding Pesticides

Notice was given in the FEDERAL REGISTER of December 7, 1966 (31 F.R. 15331), that a petition (PP 7F0547) had been filed by Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, proposing the establishment of certain tolerances for residues of the insecticide *O,O*-diethyl *S*-2-(ethylthio)ethyl phosphorodithioate in or on certain specified raw agricultural commodities.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that the subject petition has been amended to increase from 0.1 to 0.2 part per million the proposed tolerance for residues of the insecticide in or on the raw agricultural commodity coffee.

Dated: January 11, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-595; Filed, Jan. 17, 1967; 8:49 a.m.]

CIBA CORP.

Notice of Amendment of Petition Regarding Pesticides

Notice was given in the FEDERAL REGISTER of June 25, 1966 (31 F.R. 8884), that a petition (PP 6F0489) had been filed by CIBA Corp., Post Office Box 1105, Vero Beach, Fla. 32960, proposing the establishment of tolerances for residues of the herbicide 3-[*p*-(*p*-chlorophenoxy)phenyl]-1,1-dimethylurea in or on raw agricultural commodities, as follows:

0.1 part per million in or on soybeans (dry).
0.05 part per million in or on soybean hay and strawberries.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that the subject petition has been amended to increase from 0.05 to 0.1 part per million the proposed tolerance for residues of the herbicide in or on the raw agricultural commodity strawberries. The proposed tolerances for residues of the herbicide in or on soybeans (dry) and soybean hay have been withdrawn without prejudice.

Dated: January 11, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-596; Filed, Jan. 17, 1967; 8:49 a.m.]

3M CO.

Notice of Filing of Petition for Food Additive Polonium 210

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 7M2128) has been filed by 3M Company, 2501 Hudson Road, St. Paul, Minn. 55119, proposing the issuance of a regulation to provide for the safe use of polonium 210 as a source of alpha-particle radiation for the elimination of static electricity in food-packaging operations.

Dated: January 11, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-597; Filed, Jan. 17, 1967; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-273]

WESTINGHOUSE ELECTRIC INTERNATIONAL CO.

Notice of Application for and Proposed Issuance of Facility Export License

Please take notice that Westinghouse Electric International Co., Division of Westinghouse Electric Corp., 200 Park Avenue, New York, N.Y. 10017, has submitted an application dated December 13, 1966, for a license to authorize the export of certain components of a 350-megawatt electric nuclear reactor to Nordostschweizerische Kraftwerke A.G., Baden, Switzerland.

Upon finding that the reactor components proposed for export are within the scope of the Agreement for Cooperation between the Governments of the United States of America and Switzerland, and unless within 15 days after the publication of this notice in the FEDERAL REGISTER, a request for a formal hearing is filed with the U.S. Atomic Energy Commission by the applicant or an intervener as provided by the Commission's rules of practice (Title 10, CFR, Chapter 1, Part 2), the Commission proposes to issue to Westinghouse Electric International Co., Division of Westinghouse Electric Corp., a facility export license on Form AEC-250, containing the authority set forth in the text below authorizing the export of the reactor components described in the application.

Pursuant to the Atomic Energy Act of 1954, as amended, and Title 10, Chapter 1, Code of Federal Regulations, the Commission has found that:

(a) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, Code of Federal Regulations, and

(b) The reactor components proposed to be exported are a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the facility to be exported.

A copy of the application, dated December 13, 1966, is on file in the Atomic Energy Commission's Public Document Room, located at 1717 H Street NW., Washington, D.C.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 11th day of January 1967.

JAMES R. MASON,
Acting Director, Division of State and Licensee Relations.

PROPOSED EXPORT LICENSE

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations of the U.S. Atomic Energy Commission issued pursuant thereto, and in reliance on statements and representations heretofore made, Westinghouse Electric International Co., Division of Westinghouse Electric Corp., 200 Park Avenue, New York, N.Y. 10017, is authorized to export components of a 350-megawatt electric nuclear reactor to Nordostschweizerische Kraftwerke A.G., Baden, Switzerland, subject to the terms and provisions herein. The license to export extends to the licensee's duly authorized shipping agent.

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954.

This license is subject to the right of recapture or control reserved by section 108 of the Atomic Energy Act of 1954, and to all other provisions of said Act, now or hereafter in effect and to all valid rules and regulations of the U.S. Atomic Energy Commission. This license is effective as of the date of issuance and shall expire on December 31, 1967.

For the Atomic Energy Commission.

[F.R. Doc. 67-675; Filed, Jan. 17, 1967; 10:51 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 16242]

TRANSPACIFIC ROUTE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on February 15, 1967, at 10 a.m., local time, at the Ilikai Hotel located at 1777 Ala Moana Boulevard, Honolulu, Hawaii, before the undersigned Hearing Examiner.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to Board Orders E-23740, dated May 25, 1966, E-23989, dated July 20, 1966, and E-24266, dated October 5, 1966, the prehearing conference report served July 1, 1966, the supplemental prehearing conference report served July 29, 1966, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Following conclusion of the Honolulu session the hearing will reconvene in Washington, D.C. The further session has been tentatively scheduled to convene on March 8, 1967, at 10 a.m., local time, in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C.

Dated at Washington, D.C., January 13, 1967.

[SEAL] ROBERT L. PARK,
Hearing Examiner.

[F.R. Doc. 67-581; Filed, Jan. 17, 1967; 8:48 a.m.]

[Docket No. 13795, etc.]

REOPENED SUPPLEMENTAL AIR SERVICE PROCEEDING

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held on February 1, 1967, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., January 12, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-582; Filed, Jan. 17, 1967; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 65-SO-9]

SCRIPPS-HOWARD BROADCASTING CO. AND TELEVISION STATION WPTV

Notice of Hearing

Notice is hereby given that, on January 26, 1967, the public hearing in the above subject matter will be reconvened at 10 a.m., in Conference Room 810C, Federal Aviation Agency, Headquarters Building, 800 Independence Avenue SW., Washington, D.C.

Issued in Washington, D.C., on January 12, 1967.

GEORGE R. BORSARI,
Presiding Officer.

[F.R. Doc. 67-540; Filed, Jan. 17, 1967; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

NEW YORK TERMINAL CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the Offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Joseph Byrne, Agent, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 8005-5, between the members of the New York Terminal Conference, modifies the basic agreement which provides for establishment and

maintenance of rates, rules and regulations applicable to truck loading and unloading at piers in New York Harbor. The purpose of the modification is to comply with the Commission's General Orders 14 and 18. It further provides for 30 days' prior publication of all tariff changes.

Dated: January 13, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-576; Filed, Jan. 17, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP67-186]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

JANUARY 10, 1967.

Take notice that on December 27, 1966, Arkansas Louisiana Gas Co. (Applicant), Post Office Box 1734, Shreveport, La. 71102, filed in Docket No. CP67-186 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate 10,500 feet of 3½-inch market lateral and related facilities, extending from Applicant's existing 16-inch Line A to the site of the plant of Two Rivers Co. in Miller County, Ark. It is anticipated that the facilities will deliver a maximum of 1,000 Mcf of gas per day and approximately 175,000 Mcf of gas per year.

The total estimated cost of the proposed facilities is $22,100.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before January 30, 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 this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-541; Filed, Jan. 17, 1967; 8:45 a.m.]

[Docket No. CP67-189]

CITY OF LENOX, IOWA, AND NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

JANUARY 10, 1967.

Take notice that on December 29, 1966, the city of Lenox, Iowa (Applicant), filed in Docket No. CP67-189 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Natural Gas Pipeline Company of America (Respondent) to establish physical connection of its facilities with the facilities of Applicant and to sell and deliver to Applicant volumes of natural gas for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests that Respondent be ordered to establish physical connection of its natural gas transmission facilities with the facilities to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in Applicant, Prescott, Clearfield, and Bedford, Iowa.

The estimated third year peak-day and annual requirements of Applicant's service are 2,055 Mcf and 246,877 Mcf respectively.

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 February 6, 1967.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-542; Filed, Jan. 17, 1967; 8:45 a.m.]

[Docket No. CP66-299]

COLORADO INTERSTATE GAS CO.

Notice of Petition To Amend

JANUARY 10, 1967.

Take notice that on December 27, 1966, Colorado Interstate Gas Co. (Petitioner), Post Office Box 1087, Colorado Springs, Colo. 80901, filed in Docket No. CP66-299 a petition to amend the order issued in said docket on July 18, 1966, by requesting authorization to increase wellhead shut-in pressure and maximum gas inventory at Fort Morgan Field, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the instant petition in the aforementioned proceeding Petitioner specifically requests authorization to increase the maximum wellhead shut-in pressure to 1.813 p.s.i.a. and to increase the maximum gas inventory to 17,106 M'cf at 14.73 p.s.i.a.

Petitioner alleges that no additional facilities are required to effectuate the proposed pressure through 1970.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before January 30, 1967.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-543; Filed, Jan. 17, 1967; 8:45 a.m.]

[Docket No. G-8934]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

JANUARY 10, 1967.

Take notice that on December 27, 1966, El Paso Natural Gas Co. (Petitioner), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. G-8934 a petition to amend the order issued in the said docket on November 25, 1955, by requesting authorization to terminate direct sales of natural gas to an industrial customer and to initiate sales for resale of the gas required by the aforesaid customer, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued in the instant proceeding on November 25, 1955, Pacific Northwest Pipeline Corp., Petitioner's predecessor in interest, was granted authorization to construct and operate certain facilities for the direct sale and delivery of natural gas to Potlatch Forests, Inc. (Potlatch) for industrial use.

Accordingly, by the instant filing Petitioner requests that the order of November 25, 1955, in the instant proceeding be amended by authorizing Petitioner to terminate the direct sale and delivery of natural gas to Potlatch and to initiate sale and delivery of the natural gas required by Potlatch to Washington Water Power Co. which will resell and deliver the gas to Potlatch.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before January 30, 1967.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-544; Filed, Jan. 17, 1967; 8:45 a.m.]

[Docket No. CP67-60]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

JANUARY 10, 1967.

Take notice that on January 3, 1967, El Paso Natural Gas Co. (Petitioner),

Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP67–60 a petition to amend the order issued in said docket on December 6, 1966, by requesting authorization to install and operate additional compressor facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued in the instant docket on December 6, 1966, Petitioner was authorized to construct and operate certain gas purchase facilities for the connection of Petitioner's transmission system with independent producers.

Petitioner specifically requests that the order of December 6, 1966, be amended by authorizing Petitioner to install and operate 550 horsepower compressor unit at its Kutz Compressor Station as well as the installation, during the calendar year 1967, and operation of compressor horsepower as may be required to compensate for declining reservoir pressures of existing gas sources.

The estimated cost of the proposed compressor installations is $275,000.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before February 6, 1967.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67–545; Filed, Jan. 17, 1967; 8:46 a.m.]

[Docket No. CP67–185]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

JANUARY 10, 1967.

Take notice that on December 27, 1966, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP67–185 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of additional volumes of natural gas for resale in interstate commerce to one of its existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to sell and deliver an additional daily contract quantity of 15,000 Mcf of gas to Illinois Power Co. (Illinois Power), an existing customer of Applicant, for resale to customers of Illinois Power and especially to an industrial plant located near the village of Hennepin, Bureau County, Ill. The sale and delivery is to commence December 1, 1967.

The application states that no additional facilities are required to make the proposed sale and delivery.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before January 30, 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 this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67–546; Filed, Jan. 17, 1967; 8:46 a.m.]

[Project No. 2233]

PORTLAND GENERAL ELECTRIC CO. ET AL.

Notice of Application for Amendment of License for Constructed Project

JANUARY 11, 1967.

Public notice is hereby given that application for amendment of license has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Portland General Electric Co., Crown Zellerbach Corp., and Publishers' Paper Co. (correspondence to: Frank M. Warren, Jr., President, and Waldemar Seton, Vice President, Portland General Electric Co., Electric Building, Portland, Oreg. 97205) for constructed Project No. 2233, located on the Willamette River at Willamette Falls, in Clackamas County, Oreg., in the region of Oregon City and West Linn.

The application seeks to amend the license for the constructed project to show the removal by Publishers' Paper Co. of hydraulic turbines and associated woodpulp grinders and appurtenant machinery from Mills A and H of the Willamette Falls development, thereby causing a reduction in the total project capacity from 58,800 horsepower to 47,200 horsepower and a reduction in the capacity assigned in the license to Publishers' Paper Co. from 13,800 horsepower to 2,200 horsepower. According to the application, the proposed changes are necessary for the reason that Publishers' Paper Co. has been changing from the grinding of pulp by direct water power to electric power and since 1962 has ground no pulp by direct water power.

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). The last day upon which protests or petitions may be filed is February 21, 1967. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67–547; Filed, Jan. 17, 1967; 8:46 a.m.]

[Docket No. RP67–14]

SOUTH GEORGIA NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

JANUARY 10, 1967.

Pursuant to § 2.59 of the Commission's rules (18 CFR 2.59), notice is hereby given that on January 3, 1967, South Georgia Natural Gas Co. (South Georgia), filed proposed changes in its FPC Gas Tariff, Original Volume No. 1, to become effective as of October 1, 1966. The proposed changes reflect decreased rates and charges in Rate Schedules G–1, G–2, and AC–1. The proposed decrease is approximately $77,376, based upon billing quantities for the 12-month period ended September 30, 1966, and represents the reduction in Federal income tax resulting from the company's flow-through of the tax benefits from the use of liberalized depreciation as a tax deduction.

The agreement submitted with the rate changes also provides for future rate reductions to reflect supplier reductions resulting from flow-through of liberalized depreciation tax benefits.

Copies of the proposed rate changes and agreement have been served by South Georgia upon its customers and State commissions.

Comments may be filed with the Commission on or before February 13, 1967.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67–548; Filed, Jan. 17, 1967; 8:46 a.m.]

FOREIGN-TRADE ZONES BOARD

[Order No. 71]

FOREIGN-TRADE ZONE NO. 5, SEATTLE, WASH.

Reduction and Modification of Zone Boundary

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998–1003; 19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following order which is promulgated for the information and guidance of all concerned:

Whereas, the Port of Seattle Commission, Grantee of Foreign-Trade Zone No. 5, filed an application dated October 3, 1966, for permission to reduce and modify the boundary of the zone by

withdrawing 5,148 square feet of open space;

Whereas, the Grantee finds it necessary to withdraw the necessary open space in order to build a modern warehouse outside the zone area for the use of the Port of Seattle.

Now, therefore, the Foreign-Trade Zones Board, after consideration, hereby orders:

That the boundaries of Foreign-Trade Zone No. 5 be, and they are hereby reestablished to conform with Exhibits Nos. 1, 6, 8, 10 (amended), and 13 filed with the Board, which provide for a reduction of 5,148 square feet of open space, or a net reduction in the overall zone area from approximately 42,000 square feet to approximately 36,852 square feet. Authority is also granted for the necessary structural modifications stemming from the area reductions and boundary revisions, subject to settlement locally with the District Director of Customs and the District Army Engineer regarding requirements for physical security and protection of the revenue.

It is found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (5 U.S.C. 1003) is unnecessary in connection with the issuance of this order, because it imposes no burden on the parties of interest. The effective date of this order is, therefore, upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 10th day of January 1967.

[SEAL] JOHN T. CONNOR,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

RICHARD H. LAKE,
Executive Secretary, Foreign-Trade Zones Board.

[F.R. Doc. 67-535; Filed, Jan. 17, 1967; 8:45 a.m.]

OFFICE OF EMERGENCY PLANNING

EFFECTS ON NATIONAL SECURITY OF IMPORTS OF WATCHES, MOVEMENTS AND PARTS

Notice of Publication of Report

The Director of the Office of Emergency Planning made public on January 11, 1967, his report to the President in the above matter. The report concludes an investigation which was requested by the President in a letter to the Director dated April 2, 1965. The investigation was conducted under the authority of Section 232 of the Trade Expansion Act of 1962.

The Director concluded, as a result of the investigation, that watches, movements and parts are not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. He also concluded, based on the studies and judgments of the interested defense agencies, that the domestic watch manufacturers will be likely to continue production of defense materials for the foreseeable future, that the nonhorological industry now has and will continue to have a role in the production of essential military timing devices, and that horological-type defense items will continue to be available from one source or another without regard to the level of imports of watches, movements, and parts.

Dated: January 11, 1967.

FARRIS BRYANT,
Director.

[F.R. Doc. 67-555; Filed, Jan. 17, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24D-2728]

BASIC METALS, INC.

Order Canceling Hearing, Denying Request for Withdrawal of Notification, and Making Suspension Permanent

JANUARY 12, 1967.

The Commission, by order dated July 5, 1966, having temporarily suspended the Regulation A exemption of Basic Metals, Inc., 305 Burns Building, Colorado Springs, Colo., pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, and the company having requested a hearing upon the allegations set forth in the aforementioned order, and the Commission, by order dated August 15, 1966, having ordered a hearing in the above-entitled matter for September 30, 1966, at the Commission's Denver Regional Office and said hearing having been rescheduled and then postponed indefinitely; and,

The company having requested withdrawal of its notification and of its request for a hearing, the Division of Corporation Finance and the Denver Regional Office having objected to the issuer's request for withdrawal of its notification and not having interposed an objection to the withdrawal of the request for a hearing; and,

It appearing to the Commission that to grant the issuer's request for withdrawal of the notification would be tantamount to the vacation of the temporary suspension without the benefit of an evidentiary hearing and, since the notification is subject to an order under Rule 261, contrary to the provisions of Rule 255(e) of Regulation A,

It is ordered, That the request of Basic Metals, Inc. for withdrawal of the notification be, and it hereby is, denied.

It is ordered, That the request for hearing be, and it hereby is, deemed withdrawn.

It is further ordered, That the hearing in this matter, now postponed indefinitely be, and it hereby is, canceled.

Pursuant to the provisions of Rule 261(b) of Regulation A, the suspension of the Regulation A exemption from registration under the Securities Act of 1933, as amended, with respect to the proposed public offering of securities by Basic Metals, Inc. becomes permanent.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-556; Filed, Jan. 17, 1967; 8:46 a.m.]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JANUARY 12, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 13, 1967, through January 22, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-557; Filed, Jan. 17, 1967; 8:46 a.m.]

[File No. 1-1686]

LINCOLN PRINTING CO.

Order Suspending Trading

JANUARY 12, 1967.

The common stock, 50 cents par value, and the $3.50 cumulative preferred stock, no par value, of Lincoln Printing Co., being listed and registered on the Midwest Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and the 8 percent convertible debenture bonds due March 13, 1968, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the Midwest Stock Exchange and otherwise than on a national

securities exchange be summarily suspended, this order to be effective for the period January 13, 1967, through January 22, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-558; Filed, Jan. 17, 1967; 8:47 a.m.]

[File No. 0-592]

PAKCO COMPANIES, INC.

Order Suspending Trading

JANUARY 12, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pakco Cos., Inc. and all other securities of Pakco Cos., Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 13, 1967 through January 22, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-559; Filed, Jan. 17, 1967; 8:47 a.m.]

PINAL COUNTY DEVELOPMENT ASSOCIATION

Order Suspending Trading

JANUARY 12, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the 5⅞ percent Industrial Development Revenue Bonds of Pinal County Development Association due April 15, 1989, otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934 that trading in such bonds be summarily suspended, this order to be effective for the period January 13, 1967, through January 22, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-560; Filed, Jan. 17, 1967; 8:47 a.m.]

[File No. 1-4407]

SPORTS ARENAS, INC.

Order Suspending Trading

JANUARY 12, 1967.

The common stock, 1 cent par value, of Sports Arenas, Inc., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the 6 percent convertible debentures of Sports Arenas, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 13, 1967, through January 22, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-561; Filed, Jan. 17, 1967; 8:47 a.m.]

UNDERWATER STORAGE, INC.

Order Suspending Trading

JANUARY 12, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Underwater Storage, Inc. otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 13, 1967, through January 22, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-562; Filed, Jan. 17, 1967; 8:47 a.m.]

UNITED SECURITY LIFE INSURANCE CO.

Order Suspending Trading

JANUARY 12, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value, of United Security Life Insurance Co., Birmingham, Ala., otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 13, 1967, through January 27, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-563; Filed, Jan. 17, 1967; 8:47 a.m.]

[File No. 1-4371]

WESTEC CORP.

Order Suspending Trading

JANUARY 12, 1967.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 13, 1967, through January 22, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-564; Filed, Jan. 17, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 13, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 40869—*Sugarbeet or cane to Hebco and Sulphur Springs, Tex.* Filed by Trans-Continental Freight Bureau, agent (No. 442), for interested rail carriers. Rates on sugar, beet or cane, in bulk in covered hopper cars, in carloads, from points in California, Colorado, Idaho, Nebraska, Oregon, South Dakota, Utah, Washington, and Wyoming, to Hebco and Sulphur Springs, Tex., and shipments returned from original destination to original point of shipment.

Grounds for relief—Market competition and rate relationship.

Tariffs—Supplement 72 to Trans-Continental Freight Bureau, agent, tariff ICC 1738, and supplement 33 to Southwestern Freight Bureau, agent, tariff ICC 4434.

By the Commission.

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

[F.R. Doc. 67-599; Filed, Jan. 17, 1967; 8:50 a.m.]

[Notice 320]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 13, 1967.

The following are notices of filing of applications 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 8948 (Sub-No. 76 TA), filed January 9, 1967. Applicant: WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, Calif. 90058, Post Office Box 15274, Vernon Station. Applicant's representative: Lloyd R. Guerra (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Liquid argon*, in bulk, in specially designed shipper owned trailer equipment, from Air Products and Chemicals, Inc., plant near Long Beach, Calif., to Phoenix and Mesa, Ariz., for 120 days. Supporting shipper: Air Products and Chemicals, Inc., 23320 South Alameda Street, Los Angeles, Calif. 90810. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 19193 (Sub-No. 8 TA), filed January 10, 1967. Applicant: FRED B. LAFFERTY AND J. D. LAFFERTY, a partnership, doing business as LAFFERTY TRUCKING COMPANY, 3703 Beale Avenue, Altoona, Pa. 16603. Applicant's representative: S. Berne Smith, Post Office Box 432, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between points within the territory bounded by a line beginning at Tionesta, Pa., and extending south through Shippenville, Pa., and Oakland, Md., to Thomas, W. Va., thence in a southeasterly direction to Petersburg, W. Va., thence in a northeasterly direction through Moorefield, W. Va., McConnellsburg and Duncannon, Pa., to Millersburg, Pa., thence in a northwesterly direction to Jersey Shore, Pa., and thence west through Renovo, Emporium, Johnsonburg, and St. Marys, Pa., to Tionesta, including the points named, on the one hand, and, on the other, Hancock, Md., for 180 days. NOTE: The effect of the above authority would be to permit transportation between points in the territory already authorized to applicant, on the one hand, and, on the other, Hancock, Md. Supporting shipper: The Great Atlantic & Pacific Tea Co., Inc., 3440 Forbes Avenue, Pittsburgh, Pa. 15213. Send protests to: Frank L. Calvary, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 2109 Federal Building, Pittsburgh, Pa. 15222.

No. MC 19311 (Sub-No. 14 TA), filed January 9, 1966. Applicant: CENTRAL TRANSPORT, INC., 3399 East McNichols Road, Detroit, Mich. 48212. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Ford Motor Co., on Sheldon Road, Plymouth Township, Wayne County, Mich., as an off-route point in connection with authorized service at Detroit, Mich., for 150 days. Supporting shipper: Ford Motor Co., The American Road, Dearborn, Mich. Send protests to: Gerald J. Davis, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1110, David Broderick Tower, Detroit, Mich. 48226.

No. MC 28658 (Sub-No. 12 TA), filed January 9, 1967. Applicant: INTER-CITY TRUCKING SERVICE, INC., 14333 Goddard Street, Detroit, Mich. 48212. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *General commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite of Ford Motor Co. on Sheldon Road, Plymouth Township, Wayne County, Mich., as an off-route point in connection with authorized service at Detroit, Mich., for 150 days. Supporting shipper: Ford Motor Co., The American Road, Dearborn, Mich. Send protests to: Gerald J. Davis, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1110, David Broderick Tower, Detroit, Mich. 48226.

No. MC 35469 (Sub-No. 41 TA), filed January 9, 1967. Applicant: MODERN TRANSFER CO., INC., 1300 Hanover Avenue, Allentown, Pa. 18103. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Alcoholic liquors*, in bulk, in tank vehicles, from Baltimore, Md. to Schenley, Pa., for 150 days. Supporting shipper: Schenley Distillers, Inc., Mary Street, Lawrenceburg, Ind. 47025. Send protests to: Safety Inspector James G. Swope, Bureau of Operations and Compliance, Interstate Commerce Commission, 900 U.S. Customhouse, Philadelphia, Pa. 19106.

No. MC 38170 (Sub-No. 24 TA), filed January 9, 1967. Applicant: WHITE STAR TRUCKING, INC., 1750 Southfield, Lincoln Park, Mich. 48146. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the plantsite of Ford Motor Co. on Sheldon Road, Plymouth Township, Wayne County, Mich., as an off-route point in connection with authorized service at Detroit, Mich., for 150 days. Supporting shipper: Ford Motor Co., The American Road, Dearborn, Mich. Send protests to: Gerald J. Davis, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1110, David Broderick Tower, Detroit, Mich. 48226.

No. MC 43442 (Sub-No. 17 TA), filed January 9, 1967. Applicant: TRANSPORTATION SERVICE, INC., 2021 South Schaefer Highway, Detroit, Mich. 48217. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the site of Ford Motor Co. plant located in Plymouth Township, Wayne County, Mich., as an off-route point in connection with carriers regular route operations to and from Detroit, Mich., for 180 days. Supporting shipper: Ford Motor Co., The American Road, Dearborn, Mich. Send protests to: Gerald J. Davis, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1110, David Broderick Tower, Detroit, Mich. 48226.

No. MC 58152 (Sub-No. 15 TA), filed January 9, 1967. Applicant: OGDEN AND MOFFETT COMPANY, 3565 24th Street, Port Huron, Mich. 48060. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Ford Motor Co. on Sheldon Road, Plymouth Township, Wayne County, Mich., as an off-route point in connection with authorized service at Detroit, Mich., for 150 days. Supporting shipper: Ford Motor Co., the American Road, Dearborn, Mich. Send protests to: Gerald J. Davis, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1110, David Broderick Tower, Detroit, Mich. 48226.

No. MC 59680 (Sub-No. 156 TA), filed January 10, 1966. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Lane, Post Office Box 5689, Dallas, Tex. 75222. Applicant's representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as described by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Ford Motor Co. in Plymouth Township, Mich., as intermediate and off-route points to applicant's authorized regular route operations to and from Detroit, Mich., for 180 days. Supporting shipper: Ford Motor Co., the American Road, Dearborn, Mich. 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 70151 (Sub-No. 43 TA), filed January 9, 1967. Applicant: UNITED TRUCKING SERVICE, INCORPORATED, 3047 Lonyo Road, Detroit, Mich. 48209. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the plantsite of Ford Motor Co. on Sheldon Road, Plymouth Township, Wayne County, Mich., as an off-route point in connection with authorized service at Detroit, Mich., for 150 days. Supporting shipper: Ford Motor Co., the American Road, Dearborn, Mich. Send protests to: Gerald J. Davis, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1110, David Broderick Tower, Detroit, Mich. 48226.

No. MC 80498 (Sub-No. 7 TA), filed January 9, 1967. Applicant: EARL C. SMITH, INC., 1720 Dove Street, Port Huron, Mich. 48060. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Ford Motor Co., on Sheldon Road, Plymouth Township, Wayne County, Mich., as an off-route point in connection with authorized service at Detroit, Mich., for 150 days. Supporting shipper: Ford Motor Co., the American Road, Dearborn, Mich. Send protests to: Gerald J. Davis, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1110, David Broderick Tower, Detroit, Mich. 48226.

No. MC 103435 (Sub-No. 194 TA), filed January 9, 1967. Applicant: UNITED BUCKINGHAM FREIGHT LINES, East 4005 Broadway Avenue, Spokane, Wash. 99202, Post Office Box 2726. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Flour, grain*, in bags, from Great Falls, Mont., to points in South Dakota, for 180 days. Supporting shipper: General Mills, Inc., Great Falls, Mont. 59401. Send protests to: L. C. Taylor, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 401 U.S. Post Office Building, Spokane, Wash. 99201.

No. MC 109584 (Sub-No. 137 TA), filed January 9, 1967. Applicant: ARIZONA-PACIFIC TANK LINES, 3201 Ringsby Court, Denver, Colo. 80216. Applicant's representative: Eugene Hamilton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *liquid sugars*, in bulk, in shipper owned tank vehicles, from the plantsite of Spreckels Sugar Co., Los Angeles, Calif., to Las Vegas, Nev., for 120 days. Supporting shipper: Spreckels Sugar Co., 2 Pine Street, San Francisco, Calif. 94111. Send protests to: District Supervisor Luther H. Oldham, Interstate Commerce Commission, Bureau of Operations and Compliance, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 113678 (Sub-No. 273 TA), filed January 9, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. Applicant's representative: Oscar Mandel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Meats, meat products, and meat byproducts*, as defined in parts A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from Greeley, Colo., to points in New York, on and west of U.S. Highway 11, Pennsylvania (except Philadelphia), Illinois, Indiana, Ohio, Michigan, and Delaware, restricted to those shipments having two or more stops in transit for partial unloading, for 180 days. Supporting shipper: Monfort Packing Co., Greeley, Colo. Send protests to: Herbert C. Ruoff, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 2022 Federal Office Building, Denver, Colo. 80202.

No. MC 118282 (Sub-No. 7 TA), filed January 9, 1967. Applicant: NURSERYMAN SUPPLY, INC., 6901 Northwest 74th Avenue, Miami, Fla. 33166. Applicant's representative: Monty Schumacher, Suite 693, 1375 Peachtree Street NE., Atlanta, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Frozen bakery products*, in mechanically refrigerated vehicles, from Pottstown and Morgantown, Pa., to points in Florida, South Carolina, North Carolina, and Georgia, for 150 days. Supporting shipper: Mrs. Smith's Pie Co., Charlotte and Water Streets, Pottstown, Pa. 19464. Send protests to: Joseph B. Teichert, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 1621, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 119752 (Sub-No. 6 TA), filed January 9, 1967. Applicant: G & G HAULING CO., INC., 215 Henderson Street, Jersey City, N.J. 07302. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: (1) *Building and roofing materials; siding, materials, and supplies* (except liquid commodities in bulk), used in the installation, application, and distribution of such commodities, from the plants, warehouses and other facilities of the United States Gypsum Co., Jersey City, N.J., to points in Delaware, Maryland, and the District of Columbia. (2) *Returned shipments, materials, and equipment* (except liquid commodities in bulk) used in the manufacture and distribution of the commodities described above, from points in the above-described destination territory to the above-described origin, Jersey City, N.J., for 180 days. Supporting shipper: United States Gypsum Co., 600 Madison Avenue, New York, N.Y. 10022. Send protests to: District Supervisor Walter J. Grossman, Interstate Commerce Commission, Bureau of Operation and Compliance, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 124236 (Sub-No. 22 TA), filed January 9, 1966. Applicant: CHEMICAL EXPRESS, INC., 3300 Republic National Bank Building, Dallas, Tex. 75201. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Cement* from Tyler, Tex., to points in Arkansas, Louisiana, and Oklahoma, for 180 days. Supporting shipper: Longhorn Cement, Division

of Kaiser Cement & Gypsum Corp., Route 13, Box 714, San Antonio, Tex. 78209. Send protests to: District Supervisor E. K. Willis, Jr., Bureau of Operations and Compliance, Interstate Commerce Commission, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 124692 (Sub-No. 28 TA), filed January 10, 1967. Applicant: MYRON SAMMONS, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Prefabricated metal buildings* (knocked down), *prefabricated metal building sections* (knocked down), *component parts, equipment, materials, and supplies* used in the installation, construction, or erection thereof (except metal buildings which are designated to be drawn by passenger vehicles, and except commodities which by reason of size or weight require special equipment or special handling), from Evansville, Wis., to points in Minnesota, North Dakota, South Dakota, Nebraska, Wyoming, Colorado, Utah, Idaho, Washington, and Oregon, for 180 days. Supporting shipper: Pruden Products Co., Evansville, Wis. 53536. Send protests to: Paul J. Labane, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 128799 TA, filed January 11, 1967. Applicant: C. B. THOMPSON, doing business as C B T TRUCKING, 1500 East Powell, Fort Worth, Tex. 76104. Applicant's representative: M. Ward Bailey, Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Fertilizer*, in bags, sacks, or packages, from Texas City, Tex., to points in North Dakota and South Dakota, for 180 days. Supporting shipper: Osborne McMillan Elevator Co., Box 2113 Commerce Station, Minneapolis, Minn. 55415. Send protests to: Ralph Bezner, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

By the Commission.

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

[F.R. Doc. 67-600; Filed, Jan. 17, 1967; 8:50 a.m.]

[Notice 429]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 13, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's deviation rules revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 941 (Deviation No. 1), McCRACKEN BROS. MOTOR FREIGHT, INC., 2320 West Seventh Place, Eugene, Oreg. 97402, filed January 4, 1967. Carrier's representative: Robert R. Hollis, Commonwealth Building, Portland, Oreg. 97204. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Portland, Oreg., over Interstate Highway 5 to Springfield, Oreg., and (2) from Eugene, Oreg., over Interstate Highway 5 to Salem, Oreg., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Portland, Oreg., over U.S. Highway 99E to junction U.S. Highway 99, thence over U.S. Highway 99 to junction U.S. Highway 126 at Springfield, Oreg., and (2) from Eugene, Oreg., over U.S. Highway 99 to junction U.S. Highway 99E, thence over U.S. Highway 99E to Salem, Oreg., and return over the same routes.

No. MC 2202 (Deviation No. 92) ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed December 23, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Ebensburg, Pa., over U.S. Highway 22 to junction U.S. Highway 119, thence over U.S. Highway 119 to junction U.S. Highway 422, at Indiana, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Ebensburg, Pa., over U.S. Highway 422 to Indiana, Pa., and return over the same route.

No. MC 10875 (Deviation No. 15), BRANCH MOTOR EXPRESS CO., 114 Fifth Avenue, New York, N.Y. 10011, filed December 22, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Boston, Mass., over Interstate Highway 90 (Massachusetts Turnpike and New York Thruway) to junction with Interstate Highway 87 (New York Thruway) thence over combined Interstate Highway 87 and Interstate Highway 90 (New York Thruway) to junction Interstate Highway 90, thence over Interstate Highway 90 to Buffalo, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Boston, Mass., over Massachusetts Highway 9 to junction U.S. Highway 20, thence over U.S. Highway 20 to Sturbridge, Mass., thence over Massachusetts Highway 15 to the Connecticut-Massachusetts State line, thence over Connecticut Highway 15 to junction Connecticut Highway 74, thence over Connecticut Highway 74 to junction Connecticut Highway 30, thence over Connecticut Highway 30 to junction U.S. Highway 5, thence over U.S. Highway 5 to New Haven, Conn., thence over U.S. Highway 1 to New York, N.Y., thence over U.S. Highway 46 to Portland, Pa., thence over U.S. Highway 611 to Scranton, Pa., thence over U.S. Highway 11 to Binghamton, N.Y., thence over New York Highway 17 to Painted Post, N.Y., thence over U.S. Highway 15 to East Avon, N.Y., thence over New York Highway 5 to Buffalo, N.Y., and return over the same route.

No. MC 27719 (Deviation No. 1) HAYES TRUCK LINES, INC., 8702 South Hosmer Street, Tacoma, Wash. 98444, filed December 29, 1966. Carrier's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Winlock, Wash., over unnumbered highway to junction Interstate Highway 5, thence over Interstate Highway 5 to Portland, Oreg., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Winlock, Wash., over unnumbered highway to Cowlitz Corner, Wash., thence over U.S. Highway 99 to Portland, Oreg., and return over the same route.

No. MC 59583 (Deviation No. 25), THE MASON & DIXON LINES, INCORPORATED, Post Office Box 969, Kingsport, Tenn. 37662, filed December 22, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Richmond, Va., and Louisville, Ky., over Interstate Highway 64, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Richmond, Va., over U.S. Highway 60 to junction Virginia Highway 24, thence over Virginia Highway 24 to Appomattox, Va., thence over U.S. Highway 460 to Roanoke, Va., thence over U.S. Highway 11 to Bristol, Tenn., thence over U.S. Highway 11W to Bean Station, Tenn., thence over U.S. Highway 25E to Corbin, Ky., thence over U.S. Highway 25 to Mount Vernon, Ky., thence over U.S. Highway 150 via Stan-

ford, Ky., to Danville, Ky., thence over U.S. Highway 127 (formerly Kentucky Highway 35) to Alton Station, thence over Kentucky Highway 151 to Graefenburg, Ky., thence over U.S. Highway 60 to Louisville, Ky., and return over the same route.

No. MC 62541 (Deviation No. 1), MORSTAIN TRANSFER, INC., 21 Broadway, Highland, Ill. 62249, filed January 5, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From St. Louis, Mo., over Interstate Highway 270 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction U.S. Highway 40, and (2) from St. Louis, Mo., over Interstate Highway 70 to junction U.S. Highway 40, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Vandalia, Ill., over U.S. Highway 40 to St. Louis, Mo., and return over the same route.

No. MC 103435 (Deviation No. 16), UNITED-BUCKINGHAM FREIGHT LINES, Post Office Box 1631, Rapid City, S. Dak. 57701, filed January 4, 1967. Carrier's representative: Maurice Andren (same address as applicant). Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Fargo, N. Dak., over Interstate Highway 94 to junction Interstate Highway 694, thence over Interstate Highway 694 to junction Interstate Highway 494, thence over Interstate Highway 494 to junction Interstate Highway 94, thence over Interstate Highway 94 to Chicago, Ill. (pending completion of Interstate Highways 94, 494, and 694, applicant proposes to use U.S. Highway 52, Minnesota Highway 36 and U.S. Highway 12 with necessary access routes), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Minneapolis, Minn., over U.S. Highway 52 to Fargo, N. Dak., (2) from Devils Lake, N. Dak., over U.S. Highway 2 to Grand Forks, N. Dak., thence over U.S. Highway 81 to Fargo, N. Dak., thence over U.S. Highway 10 to Anoka, Minn., thence over U.S. Highway 169 to Minneapolis, Minn. (also from Devils Lake to Fargo as specified, thence over U.S. Highway 52 via Evansville, Minn., to Minneapolis; also from Devils Lake over U.S. Highway 2 via Grand Forks, N. Dak., to junction U.S. Highway 59, thence over U.S. Highway 59 to Elbow Lake, Minn., thence over Minnesota Highway 79 to Evansville, Minn., thence as specified to Minneapolis), (3) from St. Paul, Minn., over U.S. Highway 10 to Fargo, N. Dak.

(4) From South St. Paul, Minn., over city streets to St. Paul, Minn., thence over U.S. Highway 10 to Detroit Lakes, Minn., thence over U.S. Highway 59 to Erskine, Minn., thence over U.S. Highway 2 to Devils Lake, N. Dak., thence over North Dakota Highway 20 to Starkweather, N. Dak., thence over North Dakota Highway 17 to Cando, N. Dak., thence over U.S. Highway 281 to junction North Dakota Highway 5, thence over North Dakota Highway 5 to Bottineau, N. Dak. (also from South St. Paul over city streets to St. Paul, Minn., thence over U.S. Highway 61 to Duluth, Minn., thence over U.S. Highway 2 to Erskine, Minn., thence as specified above to Bottineau), (5) from Moorhead, Minn., over U.S. Highway 10 to Fargo, N. Dak., (6) from Des Moines, Iowa, over U.S. Highway 69 to junction Iowa Highway 3, thence over Iowa Highway 3 to Clarion, Iowa, (7) from Des Moines, Iowa, over U.S. Highway 69 to Garner, Iowa, thence over U.S. Highway 18 to Mason City, Iowa, thence over U.S. Highway 65 to Owatonna, Minn., thence over Minnesota Highway 218 via Rosemount to St. Paul, Minn., (8) from Des Moines, Iowa, to Rosemount, Minn., as specified in (7) above, thence over Minnesota Highway 218 to junction Minnesota Highway 55, thence over Minnesota Highway 55 to Minneapolis, Minn., and (9) from Chicago, Ill., over U.S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora, Ill., thence over Illinois Highway 31 to junction U.S. Highway 34, thence over U.S. Highway 34 to junction Illinois Highway 92, thence over Illinois Highway 92 via Yorktown, Ill., to Moline, Ill., thence over U.S. Highway 6 to Iowa City, Iowa, thence over U.S. Highway 218 to Cedar Rapids, Iowa, thence over U.S. Highway 30 to Ames, Iowa, thence over U.S. Highway 69 to Des Moines, Iowa (also from Chicago to Yorktown as specified, thence over Illinois Highway 92 to junction Illinois Highway 78, thence over Illinois Highway 78 to junction U.S. Highway 30, thence over U.S. Highway 30 to Ames, Iowa, thence over U.S. Highway 69 to Des Moines, and also from Chicago to Iowa City as specified, thence over U.S. Highway 6 to Des Moines), and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 351) (Cancels Deviation No. 210), GREYHOUND LINES, INC. (Southern Division), 219 Short Street, Lexington, Ky. 40507, filed December 27, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, over deviation routes as follows: (1) From Chattanooga, Tenn., over Interstate Highway 75 to junction Georgia Highway 140, thence over Georgia Highway 140 to junction U.S. Highway 41, at Adairsville, Ga., with the following access roads (a) from junction Interstate Highway 75 and Georgia Highway 2 over Georgia Highway 2 to Ringgold, Ga., thence over Georgia Highway 151 to junction Interstate Highway 75, (b) from junction Interstate Highway 75 and U.S. Highway 41 over U.S. Highway 41 to Dalton, Ga., and (c) from junction Interstate Highway 75 and U.S. Highway 41 over U.S. Highway 41 to Calhoun, Ga., thence over Georgia Highway 156 to junction Interstate Highway 75, and (2) from Atlanta, Ga., over Interstate Highway 75 to junction Georgia Highway 120, thence over Georgia Highway 120 to junction U.S. Highway 41, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Chattanooga, Tenn., over U.S. Highway 41 via Macon, Ga., to Lake City, Fla., thence over U.S. Highway 90 to Jacksonville, Fla., and return over the same route.

No. MC 1515 (Deviation No. 352) (Cancels Deviation No. 97), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed January 5, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Mount Meigs, Ala., over Interstate Highway 85 to junction U.S. Highway 29 at Lanett, Ala., with the following access roads (1) from junction Interstate Highway 85 and Alabama Highway 126 over Alabama Highway 126 to Tuskegee, Ala., (2) from junction Interstate Highway 85 and Alabama Highway 81 over Alabama Highway 81 to Tuskegee, Ala., and (3) from junction Interstate Highway 85 and U.S. Highway 29 over U.S. Highway 29 to Opelika, Ala., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Atlanta, Ga., over U.S. Highway 29 via Bourland and La Grange, Ga., and Opelika, Ala., to Tuskegee, Ala., thence over U.S. Highway 80 to Montgomery, Ala., and return over the same route.

No. MC 1515 (Deviation No. 353) (Cancels Deviation No. 100), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed January 5, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Cullman, Ala., over U.S. Highway 278 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction U.S. Highway 31 near Kimberly, Ala., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Nashville, Tenn., over U.S. Highway 31 via Columbia, Tenn., and Calera, Jemison, and Mountain Creek, Ala., to Montgomery, Ala., and return over the same route.

No. MC 2890 (Deviation No. 62) (Cancels Deviation No. 7), AMERICAN BUSLINES, INC., 1805 Leavenworth Street, Omaha, Nebr. 68102, filed December 30, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *ex-*

press and *newspapers*, in the same vehicle with passengers, over a deviation route as follows: From Omaha, Nebr., over Interstate Highway 80 to junction Interstate Highway 180, thence over Interstate Highway 180 to Lincoln, Nebr., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Council Bluffs, Iowa, over U.S. Highway 6 via Omaha, Nebr., to Lincoln, Nebr., and return over the same route.

No. MC 52868 (Deviation No. 1), THOUSAND ISLANDS BUS LINES, INC., 122 Eames Road, Watertown, N.Y. 13601, filed December 22, 1966. Carrier's representative: Stephen A. McKay, 345 Washington Street, Watertown, N.Y. 13601. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: Between Watertown, N.Y., and Collins Landing, N.Y., over Interstate Highway 81, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: from Watertown, N.Y., over New York Highway 12 to Alexandria Bay, N.Y., and return over the same route.

No. MC 61616 (Deviation No. 18), MIDWEST BUSLINES, INC., 433 West Washington Avenue, North Little Rock, Ark. 72114, filed December 29, 1966. Carrier's representative: Nathaniel Davis, Post Office Box 1188, Little Rock, Ark. 72203. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) from the south city limits of St. Louis, Mo., over Interstate Highway 55 to junction Bypass U.S. Highway 61–67 an access road, thence over Bypass U.S. Highway 61–67 to Mehlville, Mo., a distance of 5.4 miles, and (2) from Mehlville, Mo., over Bypass U.S. Highway 61–67, an access road, to junction Interstate Highway 55, thence over Interstate Highway 55 to junction Missouri Highway 141, thence over Missouri Highway 141 to junction U.S. Highway 67, 1 mile north of Arnold, Mo., a distance of 6.5 miles, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same commodities over a pertinent service route as follows: From St. Louis, Mo., over U.S. Highway 67 to Judsonia, Ark., and return over the same routes.

By the Commission.

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

[F.R. Doc. 67-601; Filed, Jan. 17, 1967; 8:50 a.m.]

[Notice 1015]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 13, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 82841 (Sub-No. 18) (Amendment), filed May 30, 1966, published FEDERAL REGISTER issue of June 23, 1966, amended July 19, 1966, republished as amended August 11, 1966, amended December 7, 1966, and republished as amended, this issue. Applicant: R. D. TRANSFER, INC., 801 Livestock Exchange Building, Omaha, Nebr. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Pipe, tubing, and electric light poles*, (b) *accessories and fittings when moving in the same vehicle with pipe, tubing, and electric light poles*, and (c) *materials, equipment, and supplies used in installation and maintenance of electric light poles when moving with such light poles*, from points in Douglas County, Nebr. (except Omaha, Nebr., and points in its commercial zone) to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada, and (2) *irrigation systems and parts thereof*, from points in Douglas County, Nebr. (except Omaha, Nebr., and points in its commercial zone), to points in Kentucky, Tennessee, and Florida, restricted against handling of commodities which by reason of size or weight require the use of special equipment or those which fall within the so-called Mercer description in (a), (b), and (c) above. NOTE: Applicant states the proposed operation could be tacked at Valley or Waterloo, Nebr., so as to transport agricultural machinery and parts, and contractors equipment and supplies, from Colorado and Kansas. The purpose of this republication is to amend and clarify the commodity description in (1) above, and to reflect the hearing information.

HEARING: February 20, 1967, at the New Federal Building, 215 North 17th Street, Omaha, Nebr., before Examiner William J. Kane.

No. MC 1934 (Sub-No. 18) (Republication), filed February 3, 1965, published FEDERAL REGISTER issue of February 25, 1965, and republished, this issue. Applicant: THE ARROW LINE, INC., 70 Florence Street, East Hartford, Conn. Applicant's representative: Thomas W. Murrett, 410 Asylum Street, Hartford, Conn. In the above-specified proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular routes, of passengers and their baggage, and express and newspapers, in the same vehicle with passengers, between Storrs, Conn., and New York, N.Y.; from Storrs over Connecticut Highway 195 to junction Connecticut Highway 89, thence over Connecticut Highway 89 to junction Connecticut Highway 32, thence over Connecticut Highway 32 to junction Interstate Highway 95, and thence over Interstate Highway 95 to New York, and return over the same route, serving no intermediate points. A decision and order of the Commission, Operating Rights Review Board No. 1, dated December 29, 1966, and served January 10, 1967, as amended, finds that operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular routes, of *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between Storrs, Conn., and New York, N.Y.; from Storrs over Connecticut Highway 195 to junction Connecticut Highway 89, thence over Connecticut Highway 89 to junction Connecticut Highway 32, thence over Connecticut Highway 32 to junction Connecticut Highway 52, thence over Connecticut Highway 52 to junction Interstate Highway 95, thence over Interstate Highway 95 to New York, and return over the same route, serving no intermediate points, subject to the condition that the authority granted herein shall not be combined or joined with any other authority held by applicant for the purpose of providing a through serving and subject to the condition that issuance of a certificate will be withheld for a period of 30 days after republication in the FEDERAL REGISTER of a description of the authority granted herein during which time any interested party may file an appropriate pleading.

No. MC 2484 (Sub-No. 41) (Republication), filed March 28, 1966, published FEDERAL REGISTER issues of April 14, 1966, and June 3, 1966, and republished this issue. Applicant: E & L TRANSPORT COMPANY, a corporation, 14201 Prospect Avenue, Post Office Box 299, Dearborn, Mich. 48121. Applicant's representative: George S. Dixon, Suite 1700,

1 Woodward Avenue, Detroit, Mich. 48226. By application filed March 28, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of farm type tractors, (1) from Detroit, Mich., to points in New York, and (2) from points in Lorain County, Ohio, to points in Ohio, Maryland, New Jersey, New York, Delaware, Georgia, Alabama, and South Carolina. An order of the Commission, Operating Rights Board No. 1, dated December 22, 1966, and served January 6, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of farm tractors, (1) from the plantsites of the Ford Motor Co. in Detroit, Mich., to points in New York, and (2) from the plantsites of the Ford Motor Co. in Lorain County, Ohio, to points in Ohio, Maryland, New Jersey, New York, Delaware, Georgia, Alabama, and South Carolina; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 51146 (Sub-No. 45) (Republication), filed May 11, 1966, published FEDERAL REGISTER issue of June 3, 1966, and republished this issue. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. Applicant's representative: Charles W. Singer, 33 North La Salle Street, Chicago, Ill. 60602. By application filed May 11, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of pulp, (except in tank or hopper type vehicles), between points in Wisconsin on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia. An order of the Commission, Operating Rights Board No. 1, dated December 23, 1966, and served January 11, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of wood pulp between points in Wisconsin (except those in Milwaukee, Racine, and Kenosha Counties, Wis.), on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New York, New Jersey, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 61592 (Sub-No. 48) (Republication), filed July 26, 1965, published FEDERAL REGISTER issue of August 19, 1965, and republished this issue. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 44402. In the above-specified proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of tractors (not including tractors with vehicle beds, bed frames, or fifth wheels or those which because of size or weight require the use of special equipment), and attachments and parts therefor, when transported on the same vehicle, at the same time, from New Orleans, La., to points in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee. An order of the Commission, Division 1, Acting as an Appellant Division, dated December 19, 1966, and served January 10, 1967, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, of *tractors* (except those which because of size or weight require the use of special equipment), and *attachments and parts therefor*, from New Orleans, La., to points in Alabama, Arkansas, Kentucky (except Louisville), Louisiana, Mississippi, Tennessee, and those points in Florida on and west of U.S. Highway 319, in Georgia on and west of U.S. Highway 41, in Indiana on and south of U.S. Highway 50, and in Missouri on and south of U.S. Highway 60; that the instant proceeding should be held open for further consideration of applicant's fitness after final determination of the pending proceeding in No. MC 61592 (Sub-No. 65), and for publication in the FEDERAL REGISTER of a notice of the authority actually granted by this order. Because it is possible that other parties, who have relied upon notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted herein will be published in the FEDERAL REGISTER and any issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 76177 (Sub-No. 307) (Republication), filed July 11, 1966, published FEDERAL REGISTER issue of July 28, 1966, and republished this issue. Applicant: BAGGETT TRANSPORTATION COMPANY, a corporation, 2 South 32d Street, Birmingham, Ala. 35233. Applicant's representative: Harold G. Hernly, 711 Fourteenth Street NW., Washington, D.C. 20005. By application filed July 11, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of general commodities (except those of unusual value, classes A and B explosives, blasting materials, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving the plantsites of the MacMillan-Bloedel United, Inc., and Harmac Alabama, Inc., located on the Alabama River approximately 8 miles from Camden, Ala., as off-route points in connection with its regular route operations between Selma, Ala., and Mobile, Ala. An order of the Commission, Operating Rights Board No. 1, dated December 14, 1966, and served January 6, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsites of MacMillan-Bloedel United, Inc., and MacMillan Bloedel Products, Inc., located on the Alabama River about 8 miles from Camden, Ala., as off-route points in connection with carrier's authorized regular-route operations between Selma, Ala., and Mobile, Ala.; that applicant is fit, willing, and able, properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and

would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 111729 (Sub-No. 135) (Republication), filed February 4, 1966, published FEDERAL REGISTER issues of February 25, 1966 and December 14, 1966, and republished this issue. Applicant: ARMORED CARRIER CORPORATION, 222-17 Northern Boulevard, Bayside, N.Y. (retitled), AMERICAN COURIER CORPORATION, 222-17 Northern Boulevard, Bayside, N.Y. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. By application filed February 4, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of commercial papers, business papers, records, and audit and accounting media, between points in Wayne, Oakland, and Macomb Counties, Mich., on the one hand, and, on the other, points in Ohio (except Cleveland). A corrected order of the Commission, Operating Rights Board No. 1, dated November 23, 1966, and served January 5, 1967, finds that applicant has failed to establish that it is fit, willing, and able properly to perform the service of a common carrier by motor vehicle, as defined in section 203(a)(14) of the act, with respect to the authority requested in this application, and that therefore section 207 of the act requires that the *common carrier* application be denied.

(2) That, viewing the substance of the application, the proposed service is actually that of a *contract carrier* by motor vehicle, as defined by section 203(a)(15) of the act; (3) and that the operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of such *commercial papers, documents, and written instruments, and business records* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between Detroit, Mich., on the one hand, and, on the other, points in Ohio (except Cleveland), under a continuing contract or contracts with banks and banking institutions will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the contract carrier authority for which a need is found in this order will be published in the FEDERAL REGISTER, and for a period of 30 days from the date of such publication, any proper party in interest may file an appropriate protest or other pleading.

No. MC 117119 (Sub-No. 387) (Republication), filed July 20, 1966, published FEDERAL REGISTER issue of August 18, 1966, and republished this issue. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. 72728. Applicant's representative: John H. Joyce, 26 North College, Fayetteville, Ark. 72702. By application filed July 20, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of frozen prepared foods and/or pies, not baked, (1) from Macon, Moberly, Marshall, and Carrollton, Mo., to Turlock, Calif., and (2) from Turlock, Calif., to points in California, Oregon, and Washington. An order of the Commission, Operating Rights Board No. 1, dated November 30, 1966, and served January 9, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *frozen foods* from Turlock, Calif., to points in Oregon and Washington; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 117165 (Sub-No. 21) (Republication), filed January 27, 1966, published FEDERAL REGISTER issue of February 17, 1966, and republished, this issue. Applicant: C. J. DAVIS, doing business as ST. LOUIS FREIGHT LINES, West Relief Highway U.S. 20, Michigan City, Ind. Applicant's representative: Rex Eames, 1800 Buhl Building, Detroit, Mich. 48226. By application filed January 27, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of salt and salt mixtures and salt products with additives, from Midland, Mich., to points in that part of Indiana south of U.S. Highway 40, points in that part of Ohio south of U.S. Highway 40 and east of Ohio Highway 13, and points in Illinois and Wisconsin. An order of the Commission, Operating Rights Board No. 1, dated December 22, 1966, and served January 11, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *salt and salt products*, in bulk, from Midland, Mich., to points in Illinois, Wisconsin, points in that part of Indiana south of U.S. Highway 40, and points in Ohio (except points in Ashtabula, Cuyahoga, Lake, Summit, Muskingum, and Wayne Counties, Ohio, those points in Licking County east of Ohio Highway 13, and points in that part of Ohio on and north of U.S. Highway 40 and on and west of Ohio Highway 13), and

(2) *Salt and salt products*, other than in bulk, from Midland, Mich., to points in Wisconsin, Illinois (except Chicago and points in the Chicago, Ill., commercial zone), points in that part of Indiana south of U.S. Highway 40, and points in Ohio (except Ashtabula, Conneaut, Elyria, Lorain, Massillon, Norwalk, Wooster, and Ashland, Ohio, those in that part of Ohio on and north of U.S. Highway 40 and on and west of Ohio Highway 13, and that part of Ohio on and bounded by a line beginning at Cleveland and extending over Interstate Highway 77 to junction U.S. Highway 62 at or near Canton, Ohio, thence over U.S. Highway 62 to junction Ohio Highway 14A, thence over Ohio Highway 14A to junction Ohio Highway 14 at or near Salem, Ohio, thence over Ohio Highway 14 to the Pennsylvania-Ohio State line, thence north along the Pennsylvania-Ohio State line to U.S. Highway 422, thence over U.S. Highway 422 to junction Ohio Highway 534, thence over Ohio Highway 534 to junction Ohio Highway 305 at Southington, Ohio, thence over Ohio Highway 305 to junction U.S. Highway 422, thence over U.S. Highway 422 to Cleveland); that the above-entitled proceeding be, and it is hereby, held open for further consideration of applicant's fitness subsequent to the determination of No. MC-F-9434. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 117310 (Sub-No. 4) (Republication), filed July 11, 1966, published FEDERAL REGISTER issue of July 28, 1966, and republished this issue. Applicant: FRANK C. CICIONI, 117 West Washington Street, Shenandoah, Pa. 17976. Applicant's representative: John W. Frame, Post Office Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. By application filed July 11, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of glass, used in the manufacture of storm windows and doors, from docks, piers, or wharves located at points in the Philadelphia, Pa., and New York, N.Y.,

commercial zones, as defined by the Commission, to Mount Carmel, Pa., having a prior movement in interstate or foreign commerce by water carriage. An order of the Commission, Operating Rights Board No. 1, dated December 14, 1966, and served January 5, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *glass* from Philadelphia, Pa. and points in that portion of the New York, N.Y., commercial zone, as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemption provided by section 203(b)(8) of the Interstate Commerce Act (the exempt zone), to Mount Carmel, Pa., restricted to the transportation traffic having an immediately prior movement by water; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 127557 (Sub-No. 4) (Republication), filed July 20, 1966, published FEDERAL REGISTER issue of August 25, 1966, and republished, this issue. Applicant: COMMERCIAL TRANSPORTATION, INC., 856 Warner Street SW., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith, 431 Title Building, 30 Pryor Street SW., Atlanta, Ga. 30303. By application filed July 20, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of malt beverages, in cans, bottles, or kegs, from Cincinnati, Ohio, to points in Georgia. NOTE: Common control may be involved. An order of the Commission, Operating Rights Board No. 1, dated December 16, 1966, and served January 3, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *malt beverages*, from Cincinnati, Ohio, to Atlanta and Augusta, Ga., and points in the Augusta, Ga., commercial zone; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; subject to the condition that the person or persons who control the operations both of applicant and any other carrier operating in interstate or foreign commerce shall first obtain approval of such control under the provisions of section 5(2) of the act, or, if such approval is not needed, shall so inform the Commission by affidavit. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority actually described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 128222 (Republication), filed May 19, 1966, published FEDERAL REGISTER issue of June 23, 1966, and republished this issue. Applicant: SIMON P. NEWLIN, JR., doing business as S. P. NEWLIN, Route 5, Winchester, Va. Applicant's representative: Eston H. Alt, Post Office Box 81, Winchester, Va. 22601. By application filed May 19, 1966, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of masonry building blocks and masonry construction material when transported with building blocks, from (1) the plantsite of Virginia Supreme Corp., Winchester, Va., to points in Maryland, Pennsylvania, West Virginia, and the District of Columbia within 150 miles of Winchester, Va.; and (2) the plantsite of Virginia Supreme Corp., at Hagerstown and Frederick, Md., to Winchester, Va. NOTE: Applicant states that the above operation is restricted to a continuing contract with Virginia Supreme Corp., of Hagerstown, Md. An order of the Commission, Operating Rights Board No. 1, dated December 13, 1966, and served January 6, 1967, as amended, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) *masonry building blocks*, and

(2) *Masonry construction material* in mixed loads with masonry building blocks, from the plantsite of Virginia Supreme Corp., at Winchester, Va., to points in Alleghany, Anne Arundel, Baltimore, Calvert, Carolina, Carroll, Cecil, Charles, Dorchester, Frederick, Garrett, Hartford, Howard, Kent, Montgomery, Prince Georges, Queen Annes, St. Marys, Talbot, and Washington Counties, and Baltimore City, Md., Adams, Allegheny, Armstrong, Beaver, Bedford, Berks, Blair, Butler, Cambria, Centre, Chester, Clarion, Clearfield, Clinton, Cumberland, Dauphin, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lancaster, Lebanon, Mifflin, Northumberland, Perry, Schuylkill, Snyder, Somerset, Union, Washington, Westmoreland, and York Counties, Pa., and Barbour, Berkeley, Braxton, Brooke, Doddridge, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jefferson, Lewis, Marion, Marshall, Mineral, Monongalia, Morgan, Nicholas, Ohio, Pendleton, Pocahontas, Preston, Randolph, Ritchie, Taylor, Tucker, Tyler, Upshur, Webster, and Wetzel Counties, W. Va., and the District of Columbia, under a continuing contract with Virginia Supreme Corp., of Hagerstown, Md., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, and issuance of a permit in this proceeding shall be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may file an appropriate protest or other pleading.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9631. Authority sought for purchase by TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. 30316, of the operating rights and certain property of JOHNSON FREIGHT LINES COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. 30316. Applicants' attorney: Guy H. Postell, 1375 Peachtree Street NE., Suite 693, Atlanta, Ga. 30309. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Nashville, Tenn., and Cincinnati, Ohio, serving certain intermediate points, between Atlanta, Ga., and the U.S. Army Fourth Corps Area Supply Depot at Conley, Ga., serving no intermediate points, between Nashville, Tenn., and Atlanta, Ga., serving certain intermediate points restricted, and certain off-route points without restriction, between Nashville, Tenn., and Old Hickory, Tenn., serving all intermediate points, numerous alternate routes for operating convenience only; and *general commodities*, except those of unusual value, commodities in bulk, and those requiring special equipment, between Nashville, Tenn., and Cave City, Ky., serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Florida, Georgia, Illinois, Alabama, Indiana, Tennessee, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9632. Authority sought for purchase by WILSON TRUCKING CORPORATION, New Hope Road, Post Office Box 340, Waynesboro, Va., of the operating rights of LEE COMPTON LINES INCORPORATED, 524 Rorer Avenue, SW., Roanoke, Va., and for acquisition by C. G. WILSON, MARY WOOD WILSON, and MARY LOUISE LANTIS, all of Lyndhurst, Va., of control of such rights through the purchase. Applicants' attorney: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036. Operating rights sought to be transferred: Under a certificate of registration, in docket No. MC–28363, Sub-5, covering the transportation of freight, in intrastate commerce, as a common carrier, within the State of Virginia. Vendee is authorized to operate as a *common carrier* in Virginia and the District of Columbia. Application has been filed for temporary authority under section 210a(b). NOTE: MC–64600, Sub-No. 32 is a matter directly related.

No. MC–F–9633. Authority sought for purchase by J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga., of a portion of the operating rights of HIX TRUCKING COMPANY, Post Office Box 297, Commerce, Ga., and for acquisition by JIMMIE McCLINTON, Post Office Box 589, Americus, Ga., of control of such rights through the purchase. Applicants' representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Operating rights sought to be transferred: *Lumber*, except plywood and veneer, as a *common carrier*, over irregular routes, from Commerce and Athens, Ga., and points within 5 miles of each, to certain specified points in Florida, South Carolina, North Carolina, Etowah County, Ala., and Knox and Marion Counties, Tenn.; and *lumber*, rough and dressed (except plywood and veneers), between points in that part of Georgia on and north of U.S. Highway 80, on the one hand, and, on the other, points in Florida, and points in that part of Tennessee on and east of U.S. Highway 27. Vendee is authorized to operate as a *common carrier*, in North Carolina, Alabama, Florida, Georgia, Mississippi, South Carolina, Tennessee, Missouri, Louisiana, Kansas, Illinois, Arkansas, Texas, Kentucky, Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9634. Authority sought for purchase by THEATRES SERVICE COMPANY, 830 Willoughby Way NE. (Post Office Box 1695), Atlanta, Ga. 30301, of a portion of the operating rights of DIXIE HIGHWAY EXPRESS, INC., 1900 Vanderbilt Road, Birmingham, Ala. 35202, and for acquisition by THE ATLANTA NEWSPAPERS, INC., 10 Forsyth Street NW. (Post Office Box 4689), Atlanta, Ga. 30302, of control of such rights through the purchase. Applicants' attorneys: A. O. Buck, 500 Court Square Building, Nashville, Tenn., and Guy Postell, 1375 Peachtree Street, Atlanta, Ga. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Birmingham, Ala., and Atlanta, Ga., serving all intermediate points, restricted to shipments of 5,000 pounds or more, between Birmingham, Ala., and Nashville, Tenn., serving all intermediate and certain off-route points, between Louisville, Ky., and Nashville, Tenn., serving on *southbound* traffic the intermediate point of Elizabethtown, Ky., for pickup of finished cotton garments moving to Nashville, Tenn., and intermediate points between Hodgenville, Ky., and Nashville (not including Hodgenville), without restriction, except as to Gallatin, Tenn., which is restricted to pickup only; on *northbound* traffic the intermediate points between Scottsville and Louisville, Ky., including Scottsville without restriction; and without restricting the off-route points of Burkesville, Thompkinsville, Edmonton, Fountain Run, Flippin, Temple Hill, Hiseville, Austin, Eighty-Eight, Widsom, Gamaliel, Marrowbone, Leslie, Waterview, and Albany, Ky., Cole's Ferry, Tenn., and the site of Tennessee Valley Authority Steam Plant located approimately 5 miles southeast of Gallatin, Tenn., near Cole's Ferry; serving one alternate route for operating convenience only. Vendee is authorized to operate as a *common carrier* in Georgia, Alabama, Tennessee, Kentucky, and North Carolina. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9635. Authority sought for purchase by PASCAGOULA DRAYAGE COMPANY, INC., 705 East Pine Street, Hattiesburg, Miss. 39401, of the operating rights of MILL TRANSPORTATION CORPORATION, Post Office Box 1084, Hattiesburg, Miss. 39401, and for acquisition by H. E. WEST, MICHAEL E. WEST, both of 705 East Pine Street, Hattiesburg, Miss., and VENICE M. WEST, 506 Mamie Street, Hattiesburg, Miss., of control of such rights through the purchase. Applicants' representative: W. N. Innis, Post Office Box 1326, Hattiesburg, Miss. 39401. Operating rights sought to be transferred: *Newsprint paper, printing paper*, and *groundwood paper*, as a *common carrier*, over irregular routes, from Natchez-Adams County Port at or near Natchez, Miss., to Alexandria, La., and points in that part of Louisiana on and south of U.S. Highway 190 (except Baton Rouge, New Orleans, and Slidell). Restriction: The authority granted herein is restricted to traffic having a prior movement by water. Vendee is authorized to operate as a *common carrier* in Mississippi, Tennessee, Alabama, Arkansas, and Louisiana. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9636. Authority sought for purchase by ENGEL BROTHERS, INC., 901 Julia Street, Elizabeth, N.J., of a portion of the operating rights of H. A. CRAWFORD ASSOCIATED VAN SERVICE, INC., 323 North Ninth Street, East St. Louis, Ill., and for acquisition by JOSEPH W. ENGEL and WILLIAM ENGEL, both also of Elizabeth, N.J., of control of such rights through the purchase. Applicants' attorneys: Robert J. Gallagher, 111 State Street, Boston, Mass., and Delmar O. Koebel, 107 West St. Louis Street, Lebanon, Ill. Operating rights sought to be transferred: *Household goods*, as a *common carrier*, over irregular routes, between points in Arkansas, on the one hand, and, on the other, points in Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, Texas, and Alabama, between St. Louis, Mo., and points in Missouri within 25 miles thereof, on the one hand, and, on the other, points in Arkansas, between Pine Bluff, Ark., and points in Arkansas, within 50 miles thereof, on the one hand, and, on the other, points in Louisiana, Mississippi, and Tennessee, between points in Arkansas, on the one hand, and, on the other, points in Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, Texas, and Alabama, except between Pine Bluff, Ark., and points in Arkansas, within 50 miles thereof, on the one hand, and, on the other, points in Louisiana, Mississippi, and Tennessee. Vendee is authorized to operate as a *common carrier* in North Carolina, South Carolina, Georgia, Alabama, Louisiana, New Jersey, New York, Maine, New Hampshire, Vermont, Massachussetts, Rhode Island, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, Florida, Kentucky, Tennessee, Missouri, Indiana, West Virginia, Ohio, Illinois, Michigan, Wisconsin, Minnesota, Arkansas, Iowa, Mississippi, Kansas, Texas, Oklahoma, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 67–602; Filed, Jan. 17, 1967; 8:50 a.m.]

[Notice 1017]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 13, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject

to the special rules of procedure for hearing outlined below:

Special rules of procedure for hearing. (1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 115841 (Sub-No. 298) (Correction), filed October 6, 1966, published in FEDERAL REGISTER October 20, 1966, and republished this issue. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Post Office Box 2169, 1215 Bankhead Highway West, Birmingham, Ala. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs* (except in bulk in tank vehicle) in vehicle equipped with mechanical refrigeration, from the plantsite and warehouse facilities of the Pillsbury Co. at New Albany, Ind., and Louisville, Ky., to points in Wisconsin, Iowa, Michigan, Nebraska, Missouri, Illinois, Kentucky, Ohio, Indiana, Minnesota, Virginia, West Virginia, North Carolina, South Carolina, Tennessee, Arkansas, Mississippi, Alabama, Georgia, Florida, New York, and Pennsylvania. Restriction: Restricted to traffic originating at the named plants and warehouses, and further restricted to traffic destined to the named States. NOTE: The purpose of this republication is to reflect the hearing information and to include the State of Virginia which was previously omitted from first publication.

HEARING: February 15, 1967, at the U.S. Post Office Building, 601 West Broadway, Louisville, Ky., before Examiner Jerome K. Soffer.

By the Commission.

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

[F.R. Doc. 67-603; Filed, Jan. 17, 1967; 8:50 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JANUARY 13, 1967.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. C-6714, Case No. 19 (Republication), filed March 21, 1966, published FEDERAL REGISTER issue of April 20, 1966, and republished, this issue. Applicant: CENTRAL TRANSPORT, INC., 3399 East McNichols Road, Detroit, Mich. 48212. Applicant's representative: Snyder, Loomis and Ewert, 117 West Allegan Street, Lansing, Mich. 48933. Certificate of public convenience and necessity sought to operate a freight service as follows: General commodities (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), serving the plantsite of Brighton, N.C., Machine Corp., located at 3400 Swarthout Road in Hamburg Township, Livingston County, Mich. (approximately 2 miles north of Michigan Highway 36), as an off-route point in connection with applicant's otherwise authorized service. An order of the Commission, Operating Rights Board No. 2, dated December 27, 1966, and served January 9, 1967, as amended, finds the description of the transportation service authorized to be conducted solely within the State of Michigan, in intrastate commerce, as a common carrier by motor vehicle, pursuant to Common Carrier Certificate No. C-6714, Case No. 19, dated May 19, 1966, issued by the Michigan Public Service Commission: *General commodities* serving the plantsite of Brighton, N.C., Machine Corp. located at 3400 Swarthout Road in Hamburg Township, Livingston County, Mich. (approximately 2 miles north of M-36) as an off-route point in connection with applicant's otherwise authorized regular route service. Because it is possible that interested parties, who have relied upon the notice of the application as published in the FEDERAL REGISTER, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in this order, a notice of the authority granted by this order will be published in the FEDERAL REGISTER and issuance of a certificate of registration in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading.

State Docket No. 8683-A, filed December 29, 1966. Applicant: DAKOTA TRANSFER COMPANY, a corporation, 916 South 12th Street, Aberdeen, S. Dak. Applicant's representative: J. R. Scoggin, 760 Grain Exchange Building, Minneapolis, Minn. 55415. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *grain, soybeans, and flaxseed*, between fixed termini or over the regular routes within the State of South Dakota to, from, and between Bison, Leola, Richmond, and Wetonka, on the one hand, and Aberdeen and Conde, on the other. Both intrastate and interstate authority sought.

HEARING: Thursday, January 26, 1967, at 9:30 a.m., c.s.t., at the offices of the Public Utilities Commission in the Capitol Building, Pierre, Hughes County, S. Dak. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Public Utilities Commission, Pierre, S. Dak., and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[F.R. Doc. 67-604; Filed, Jan. 17, 1967; 8:50 a.m.]

[Notice 1464]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 13, 1967.

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 Commision'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-69261. By order of December 30, 1966, the Transfer Board approved the transfer to J. D. S. Trucking, Inc., Auburn, Calif., of the certificate of registration in No. MC-99946 (Sub-No. 1), issued April 29, 1965, to Melvin Crail and Fred Becker, a partnership, doing business as Georgetown Express, Georgetown, Calif., and transferred to Jerry A. Smith and Russell O. Brown, a

partnership, doing business as L & L Fast Freight, 659 Whiting Street, Grass Valley, Calif., February 10, 1966, pursuant to No. MC-FC-68437, evidencing the right to engage in transportation in interstate or foreign commerce solely within the State of California, corresponding in scope to the service authorized by certificate of public convenience and necessity granted in decision No. 51996, as amended in decision No. 63059, by the California Public Utilities Commission. E. H. Griffiths, 451 Turk Street, Room 23, San Francisco, Calif. 94102, representative for transferee.

No. MC-FC-69304. By order of December 28, 1966, the Transfer Board approved the transfer to Frank J. Kubly Transfer, Inc., Monroe, Wis., of the operating rights in certificate No. MC-123463, issued March 28, 1961, to Raymond J. Hasse, doing business as R. J. Hasse Trucking Co., Monroe, Wis., and authorizing the transportation of cheese, among other things, over irregular routes, from points in Iowa, Lafayette, and Green Counties, Wis., to Chicago, Ill.; from Nauvoo, Ill., to Burlington, Iowa, and Plymouth, Green Bay, Brodhead, and Monroe, Wis., and from Kalona, Iowa, to Brodhead, Wis. Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703, attorney for applicants.

No. MC-FC-69307. By order of December 28, 1966, the Transfer Board approved the transfer to Sam Tanksley Trucking, Inc., East Prairie, Mo., of the operating rights of Wylie Barnes, doing business as Wylie Barnes Trucking Co., Troy, Tenn., in certificate No. MC-105566 (Sub-No. 1), issued October 31, 1960, authorizing the transportation, over irregular routes, of frozen vegetables, from Dyersburg, Tenn., to Jersey City, N.J., Chicago, Ill., Hendersonville, N.C., Mobile, Ala., and New Orleans, La., and frozen berries, from Dyersburg, Tenn., to Atlanta, Ga. Thomas F. Kilroy, Colorado Building, 1341 G Street NW., Washington, D.C. 20005, attorney for applicants.

No. MC-FC-69310. By order of December 28, 1966, the Transfer Board approved the transfer to H. George Ripley and Dorothy R. Ripley, a partnership, doing business as Butte-Bozeman Delivery Service, 612 East Main, Bozeman, Mont. 59715, of the operating rights of Ernest J. Terpstra and Hattie Terpstra, a partnership, doing business as Butte-Bozeman Delivery Service, 612 East Main, Bozeman, Mont. 59715, in certificate No. MC-96892 (Sub-No. 1), issued August 14, 1964, authorizing the transportation, over regular routes, of general commodities, except classes A and B explosives and commodities requiring special equipment, between Butte, Mont., and Bozeman, Mont.

No. MC-FC-69312. By order of December 27, 1966, the Transfer Board approved the transfer to Block & Rose, Inc., Newark, N.J., of the operating rights in certificate No. MC-117040 issued May 6, 1960, to Gregory Trucking Corp., Newark, N.J., authoring the transportation of: General commodities, with the usual exceptions, between points in New York, Pennsylvania, and New Jersey. A. David Millner, 1060 Broad Street, Newark, N.J. 07102, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-605; Filed, Jan. 17, 1967; 8:50 a.m.]

[Notice 1464-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 13, 1967.

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 general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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-68537. By order of January 10, 1967, Division 3, acting as an Appellate Division, approved the transfer to LaBar's, Inc., Berwick, Pa., of a portion of the operating rights in certificate No. MC-60478, issued March 2, 1942, to William Land, Inc., Scranton, Pa., authorizing the transportation, over irregular routes, of general commodities, with exception, in truckload lots, between Scranton, Pa., and points within 15 miles of Scranton, on the one hand, and, on the other, New York, N.Y., and points in New York within 15 miles of New York, N.Y., and points in New Jersey. John W. Frame, Post Office Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011, representative for Applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-606; Filed, Jan. 17, 1967; 8:50 a.m.]

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