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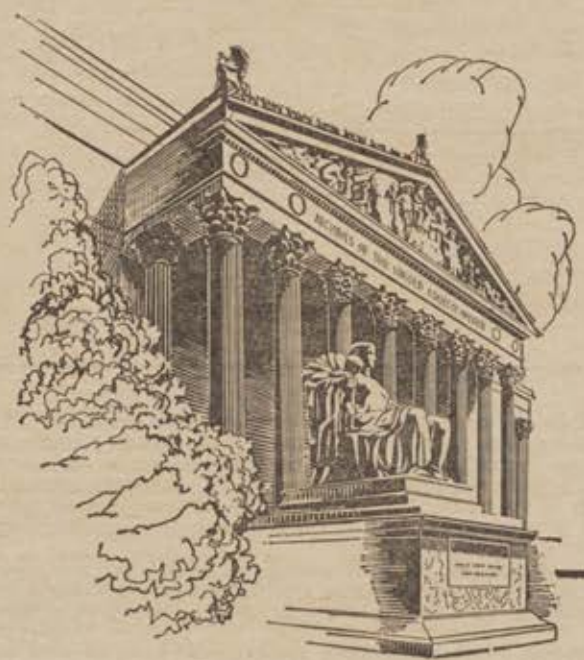

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Title 3—THE PRESIDENT

Executive Order 11473

AMENDING EXECUTIVE ORDER NO. 11157 AS IT RELATES TO INCENTIVE PAY FOR HAZARDOUS DUTY INVOLVING PARTICIPATION IN FLIGHT OPERATIONS ON THE FLIGHT DECK OF AN AIRCRAFT CARRIER

By virtue of the authority vested in me by section 301 (a) and (f) of title 37, United States Code, and as President of the United States and Commander in Chief of the armed forces of the United States, section 109(f) of Executive Order No. 11157 [1] of June 22, 1964, as amended by Executive Order No. 11242 of August 28, 1965, is amended to read as follows:

"(f) The term 'duty involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier' shall be construed to mean duty performed by members who are designated for and ordered to such duty by competent authority from among the crew of a fixed-wing aircraft carrier or an aviation unit operating from that type of carrier, and who in any calendar month (1) participate in flight operations on the flight deck during a minimum of four days or (2) participate on the flight deck, in the minimum number of aircraft launches or recoveries, or both, that is prescribed by the Secretary of the Navy as the equivalent of participation under clause (1). No member shall be entitled, however, to receive the pay provided for in this subsection if, during any month or portion thereof, he is also eligible to receive incentive pay for other hazardous duty under the provisions of section 301 of title 37, United States Code."

Richard Nixon

THE WHITE HOUSE,
June 14, 1969.

[F.R. Doc. 69-7242; Filed, June 16, 1969; 12:48 p.m.]

[1] 29 F.R. 7973; 3 CFR, 1964–1965 Comp., p. 200.

Rules and Regulations

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 137—OFFICIAL MAIL

Postage and Fees Paid Endorsements

In § 137.2 paragraph (c)(1)(ii) is amended to update the listing of Government agencies authorized to use the "postage and fees paid" endorsement on their official mail.

Accordingly, in § 137.2 *Executive and judicial officers,* amend paragraph (c)(1) by inserting in proper alphabetical order in subdivision (ii) thereof the following agencies:

§ 137.2 **Executive and judicial officers.**

* * * * *

(c) * * *

(i) * * *

(ii) * * *

Administrative Conference of the United States.
Advisory Commission on Intergovernmental Relations.
Alaska Railroad.
American Battle Monuments Commission.
Commission of Fine Arts.
D.C. Court of Appeals.
D.C. Court of General Sessions.
D.C. Juvenile Court.
Equal Employment Opportunity Commission.
Farm Credit Administration.
Federal Coal Mine Safety Board of Review.
Federal Highway Administration.
Federal Railroad Administration.
Great Lakes Basin Commission.
Indian Claims Commission.
Inter-Agency Committee on Mexican American Affairs.
International Boundary and Water Commission, U.S. Section.
National Advisory Council on Economic Opportunity.
National Foundation on the Arts and the Humanities.
National Security Council.
New England River Basin Commission.
Public Land Law Review Commission.
Transportation, Department of.

* * * * *

NOTE: The corresponding Postal Manual section is 137.231b.

(5 U.S.C. 301, 39 U.S.C. 501, 4152)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 69-7174; Filed, June 17, 1969; 8:47 a.m.]

PART 156—RURAL SERVICE

Rural Boxes

Section 156.5 paragraph (a)(5) has been revised to update the list of the authorized manufacturers and suppliers of rural mailboxes.

§ 156.5 **Rural boxes.**

(a) *Specifications.*

* * * * *

(5) Following is a list of manufacturers and suppliers of rural, and contemporary-style suburban mailboxes whose samples have been approved by the Department:

Akron Metal Sales Co., 1079 E and J Streets, Barberton, OH 44203. 1-1A-2
Babco Manufacturing, Inc., 11677 Sheldon Street, Sun Valley, CA 91352. C
Burkhead Manufacturing Co., Post Office Box 4, Houston, TX 77001. 1
Chicago Heights Furnace Supply Co., Inc., 96-104 East 22d Street, Chicago Heights, IL 60411. 1-1A-2
Deshler Mail Box Co., 101 East Maple Street, Deshler, OH 43516. 1-1A-2-C
Durable Punch & Die Co., 6635 West Irving Park Road, Chicago, IL 60634. 1-2
E. Z. Manufacturing Co., Springfield, SD, 57602. (Door Conversion Kit for No. 2)
Falls Stamping & Welding Co., Post Office Box 153, Cuyahoga Falls, OH 44222. 1-2
Handy-Tilt Corp., Post Office Box 2011, South Bend, IN 46618. C
Hermitage Stamping Co., 919 Ewing Avenue, Box 966, Nashville, TN 37202. 1

1 Traditional Rural Box Size No. 1.
1A Traditional Rural Box Size No. 1A.
2 Traditional Rural Box Size No. 2.
C Contemporary Style Suburban Box (also approved for use on rural routes).

Jackes-Evans Manufacturing Co., 4427 Geraldine Avenue, St. Louis, MO 63115. 1-1A-2
Kelley Manufacturing Co., Los Angeles Division, 5100 Santa Fe Avenue, Los Angeles, CA 90058. 1-2
Leigh Products, Inc., Coopersville, MI 49404. C
Macklanburg-Duncan Co., Post Office Box 25188, Oklahoma City, OK 73125. 1
Montgomery Ward & Co., 619 West Chicago Avenue, Chicago, IL 60610. 1-1A-2-C
Northern Fabricators Corp., Post Office Box 89, Worthington, OH 43085. C
Northwest Metal Products Co., Division of Noll Manufacturing Co., Post Office Box 10, Kent, WA 98031. 1
Sears, Roebuck & Co., 925 South Homan Avenue, Dept. 609, Chicago, IL 60607. 1-2-C
Southern Fabricators, Post Office Box 7321, Shreveport, LA 71107. C
Steel City Manufacturing Co., Post Office Box 1115, Youngstown, OH 44501. 1-1A-2-C
Superior Sheet Metal Works Co., 3201-9 Roosevelt Avenue, Indianapolis, IN 46218. 1-1A-2
The Bromwell Wire Goods Co., Michigan City, IN 46360. C
The Randall Co., 801 West Eighth Street, Cincinnati, OH 45203. C
Waterloo Industries, Inc., Post Office Box 209, Waterloo, IA 50704. C

* * * * *

NOTE: The corresponding Postmanual section is 156.515.

(5 U.S.C. 301, 39 U.S.C. 501)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 69-7175; Filed, June 17, 1969; 8:47 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 69-138]

PART 16—LIQUIDATION OF DUTIES

Countervailing Duties; Sugar Content of Certain Articles From Australia

Net amount of bounty declared for the month of May 1969, for products of Australia subject to the countervailing duty order published in T.D. 54582. Section 16.24(f), Customs Regulations, amended.

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the month of May 1969, of approved fruit products and other approved products containing sugar amounts to Australian $78.10 per 2,240 pounds of sugar content.

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, and declared to be Australian $78.10 per 2,240 pounds of sugar content. Additional duties on the above-described commodities, except those commodities covered by T.D. 55716 (27 F.R. 9595), whether imported directly or indirectly from that country, equal to the net amount of the bounty shown above shall be assessed and collected.

The table in § 16.24(f) of the Customs Regulations is amended by inserting after the last line under "Australia—Sugar content of certain articles" the number of this Treasury Decision in the column headed "Treasury Decision" and the words "New rate" in the column headed "Action." The table in § 16.24(f) is further amended by deleting therefrom under "Australia—Sugar content of certain articles" the number 69-71 in the column headed "Treasury Decision" and the words "New rate" appearing opposite such number in the column headed "Action."

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

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

Approved: June 9, 1969.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 69-7202; Filed, June 17, 1969; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Title 32, Chapter V, Subchapter G, is amended as follows:

PART 591—GENERAL PROVISIONS

1. Section 591.150 (a) and (b) is revised; § 591.151 is revoked; new Subpart B is added; and Subparts C and D are revised, as follows:

§ 591.150 Procurement channels and mailing addresses.

(a) Unless otherwise specifically prescribed, submittals to higher authority of recommendations, reports, findings, data, information, and other documents shall be through procurement channels as indicated in paragraph (c) of this section.

(b) Addressees which are frequently referred to in this subchapter are set forth below. The addressee in subparagraph (9) of this paragraph receives Army documents required to be distributed to and retained by the General Accounting Office.

(1) Assistant Secretary of the Army (Installations and Logistics), Department of the Army, Washington, D.C. 20310.

(2) Assistant Secretary of the Army (Installations and Logistics) (Assistant Judge Advocate General), Attention: JAGL, Department of the Army, Washington, D.C. 20310.

(3) Chairman, Armed Services Board of Contract Appeals, Office of the Assistant Secretary of Defense (Installations and Logistics), 3110 Columbia Pike, Arlington, Va. 22204.

(4) Chief Trial Attorney, Office of The Judge Advocate General, Department of the Army, Washington, D.C. 20310.

(5) Comptroller of the Army, Attention: Chief, Contract Financing Office, Department of the Army, Washington, D.C. 20310.

(6) Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installation and Logistics), Department of the Army, Washington, D.C. 20310.

(7) Director of Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics), Department of the Army, Washington, D.C. 20310.

(8) Office of Contract Adjustments, Office of the Assistant Secretary of the Army (Installations and Logistics), Department of the Army, Washington, D.C. 20310.

(9) Commanding General, Finance Center, U.S. Army, Attention: Processing and Disposition Branch, Retained Accounts Division, Fort Benjamin Harrison, Indianapolis, Ind. 46249.

(10) Commanding General, Finance Center, U.S. Army, Attention: FINCY, Fort Benjamin Harrison, Indianapolis, Ind. 46249.

(11) Director of Procurement and Production, Headquarters U.S. Army Materiel Command, Washington, D.C. 20315.

(12) Office of the General Counsel, Headquarters U.S. Army Materiel Command, Washington, D.C. 20315.

* * * * *

§ 591.151 Signatures on correspondence relating to procurement. [Revoked]

Subpart B—Definition of Terms

Subpart C—General Policies

Subpart D—Procurement Responsibility and Authority

AUTHORITY: The provisions of Subparts B, C, and D, issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

Subpart B—Definition of Terms

§ 591.201 Definitions.

As used throughout this subchapter, the words and terms defined in § 1.201 of this title shall have the meanings set forth therein and the words and terms defined in this subpart shall have the meanings set forth below, unless—

(a) The context in which they are used clearly requires a different meaning, or

(b) A different definition is prescribed for a particular section, part, or paragraph.

§ 591.201–50 A principal assistant responsible for procurement.

This term means an individual designated by the head of procuring activity to be responsible for procurement functions at the procuring activity level which are not required by ASPR, APP, or other directive to be performed personally by the head of procuring activity or his deputy.

§ 591.201–51 A chief of purchasing office.

This term means an individual who is the head of a purchasing office as defined in § 1.201–24 of this title.

§ 591.201–52 A level higher than the contracting officer.

This term means the next higher procurement authority to whom a contracting officer is responsible; e.g., a chief of a purchasing office is a level higher than a contracting officer subordinate to him.

Subpart C—General Policies

§ 591.304 Procurement of privately developed items.

§ 591.304–2 Specific procurement methods.

The authority granted by § 1.304–2(b)(4) of this title to a head of procuring activity to authorize the use of reverse engineering may not be redelegated.

§ 591.307 Priorities, allocations, and allotments.

(a) The Assistant Secretary of the Army (Installations and Logistics) has assigned the responsibility for administering the Priorities and Allocations System within the Department of the Army to the Deputy Chief of Staff for Logistics and has delegated to him, with power of redelegation, the authority—

(1) To apply or assign the right to apply DO or DX ratings, as appropriate, to contracts and orders,

(2) To make allotments of controlled materials, and

(3) To reschedule deliveries of materials which are required in support of the Aircraft (A–1) and Tank Automotive (A–4) Programs.

These delegations of authority are reproduced in § 591.5102.

(b) Since the use of priorities and allocations is limited to procurements placed with U.S. suppliers, the Deputy Chief of Staff for Logistics has not redelegated his authorities to oversea commanders. Should an oversea commander be authorized to place a procurement directly with a U.S. supplier and a priority rating be required to obtain timely delivery, a request for a priority rating shall be submitted to the Deputy Chief of Staff for Logistics, Attention: PED/ISB, Department of the Army, Washington, D.C. 20310, containing the following information—

(1) Contract or purchase order number and date;

(2) Name and address of U.S. supplier;

(3) Item or items on order, giving FSN and nomenclature, number of each item on order, and dollar value of order;

(4) Address to which item or items are to be shipped; and

(5) Purpose for which item or items are required.

Upon receipt of a request, action will be taken, if appropriate, by the Office, Deputy Chief of Staff for Logistics, to advise the U.S. supplier of the assignment of the priority rating and to notify the purchasing office concerned of the action taken.

§ 591.310 Liquidated damages.

Whenever a contracting officer uses a liquidated damages provision in a contract, he shall document the contract file to show the reasons necessitating its use (see also § 608.113 of this subchapter).

§ 591.310–50 Applications for remission of liquidated damages to a purchasing office or procuring activity.

(a) When a contractor applies to a purchasing office or procuring activity for remission of liquidated damages, action shall be taken to ensure that all alternative administrative remedies available to the contractor (e.g. settlement of a dispute concerning excusable delay) have been exhausted before processing the case to the Comptroller General.

(b) If liquidated damages remain after all administrative remedies have been exhausted, the contracting officer shall prepare an administrative report which shall—

(1) Summarize the matter at issue;

(2) Furnish information as to the reasonableness of the rate of assessment of liquidated damages in relation to the total contract price and summarize the actions taken to mitigate the assessment of the liquidated damages;

(3) Provide any other information or evidence deemed necessary to clear understanding of the matter; and

(4) State the findings and recommendations of the contracting officer.

§ 591.310–51 Applications for remission of liquidated damages to the Secretary or to the Comptroller General.

(a) When a contractor applies directly to the Secretary of the Army or to the Comptroller General for remission of liquidated damages, the Assistant Secretary of the Army (Installations and Logistics) shall promptly notify the cognizant head of procuring activity of the contractor's application. The head of procuring activity shall in turn notify the appropriate purchasing office.

(b) The contracting officer shall prepare an administrative report containing the information prescribed in § 591.310–50(b) and, if all alternative administrative remedies available to the contractor have not been exhausted, identifying those remedies available and stating what actions are being taken thereunder.

§ 591.310–52 Forwarding of administrative reports.

(a) Administrative reports shall be forwarded by purchasing offices through the cognizant head of procuring activity to the addressee in § 591.150(b)(6).

(b) Recommendations of each level of authority through which reports are forwarded shall be attached to the reports.

§ 591.312 Voluntary refunds.

(a) When a contracting officer considers that a voluntary refund should be requested from a contractor, he shall, after coordination with legal counsel, forward his recommendation to the addressee in § 591.150(b)(6) through the cognizant head of procuring activity. The recommendation shall include—

(1) All facts and factors pertinent to the case;

(2) Reasons for seeking a voluntary refund; and

(3) Action proposed to be taken.

(b) Upon receipt of approval from the Assistant Secretary of the Army (Installations and Logistics) to seek a voluntary refund from a contractor, the contracting officer shall prepare a letter to the president or principal officer of the contractor which—

(1) Advises the contractor that he is acting in behalf of the Secretary of the Army to whom the results of his actions will be forwarded;

(2) States the results of his review of the matter;

(3) Advises that the Department of the Army considers it important that a voluntary adjustment or refund be made promptly;

(4) Requests the contractor to refund the determined amount or make the necessary adjustment voluntarily; and

(5) If desired, invites the president or principal officer of the contractor to discuss personally the payment of the refund to the Government.

(c) If a refund action has been recommended by the General Accounting Office (GAO), the contracting officer shall forward to the addressee in § 591.150(b)(6) through the cognizant head of procuring activity for review and approval a proposed response to the GAO which shall contain the information prescribed in paragraph (a) of this section. Upon notification of approval of a proposed response to the GAO which concurs with the recommendation to seek a voluntary refund, the contracting officer shall prepare a letter to the president or principal officer of the contractor which shall contain the information prescribed in paragraph (b) of this section.

(d) If the contracting officer is unable to secure the adjustment, he shall report his actions to the cognizant head of procuring activity and recommend what further action should be taken. The head of procuring activity shall thereupon exhaust every available means to obtain the adjustment. If the head of procuring activity is unable to obtain the adjustment, he shall refer the matter to the addressee in § 591.150(b)(6) with recommendations for further action.

§ 591.314 Disputes and appeals.

(a) When a dispute involves an amount not in excess of $5,000, the contracting officer shall include a paragraph in his final decision reading substantially as follows:

If any dispute resulting from the decision hereinabove set forth involves an amount not in excess of $5,000, there is available an Optional Accelerated Procedure of the Board (Rule 12) for disposition of the appeal. To invoke such procedure, the appellant must request that the appeal be processed under Rule 12.

(b) When an appeal to the Secretary of the Army has been filed under the Disputes clause, the cognizant head of procuring activity shall—

(1) Furnish appropriate technical and legal assistance to the contracting officer;

(2) Review the findings of fact for completeness as to all issues bearing on

the matter in dispute and for the consistency therewith of the decision from which the appeal is taken;

(3) Review for completeness the contracting officer's comprehensive report, including the evidence submitted in support of his decision;

(4) Advise the contracting officer either to furnish additional support for any decision from which a timely appeal has been taken or to withdraw the decision when it is clear from the contract provisions or the applicable law that the decision is not sufficiently supported by available and competent evidence or is erroneous;

(5) Not more than 10 calendar days after taking the action in subparagraph (4) of this paragraph, notify the Chief Trial Attorney of the nature of the action taken and of an estimated date as to when either additional support will be furnished or the decision will be withdrawn;

(6) Not more than 10 calendar days after receiving the contracting officer's comprehensive report, forward to the Chief Trial Attorney—

(i) Such evaluations, conclusions, and recommendations as he deems appropriate; and

(ii) Any additional evidence considered essential to enable the Chief Trial Attorney to protect the interests of the Government before the Armed Services Board of Contract Appeals (ASBCA); and

(7) Insure that assistance is rendered the Chief Trial Attorney in obtaining additional evidence or in making other necessary preparations for presenting the position of the Government before the Board.

(c) Decisions of the Board shall be reviewed by the procuring activity and, if the head of procuring activity is of the opinion that a decision should be reconsidered, he may within 10 calendar days after receipt of the decision, request the Chief Trial Attorney to file a motion for reconsideration, stating the grounds relied upon to sustain the motion.

(d) The Chief Trial Attorney shall present to the Board all Department of the Army cases, except that Corps of Engineers attorneys shall act as trial attorneys in connection with Corps of Engineers contract cases. When it is determined by the Commanding General, U.S. Army Materiel Command, that an appeal before the Board has particular significance to his procuring activity and that it involves difficult operational and technical facts, he may, on the filing of the contracting officer's comprehensive report and after consultation with The Judge Advocate General, Department of the Army, detail to the Chief Trial Attorney an attorney from his procuring activity who shall be an attorney of record.

(e) See § 616.1 of this subchapter hereto for procedural instructions keyed to the rules of § 30.1 of this title.

§ 591.321 Procurements involving work to be performed in foreign countries by U.S. contractors.

(a) The appropriate component Commanders from whom contracting officers shall request information prescribed in § 591.321(b) of this title are—

(1) Alaska—Commanding General, U.S. Army, Alaska, APO Seattle 98749.

(2) European Theater—Commanding General, U.S. Army Communications Zone, Europe, APO New York 09058.

(3) Pacific Theater—Commander in Chief, U.S. Army, Pacific, APO San Francisco 96558.

(4) Southern Command—Commanding General, U.S. Army Forces Southern Command, Fort Amador, C.Z.

(b) The component Commanders designated above shall—

(1) Secure the coordination of and make necessary arrangements with the other major commands, or his command, as appropriate; and

(2) Obtain and furnish the requesting contracting officer the information prescribed in § 591.321(b).

§ 591.329 Release of procurement information.

§ 591.329–1 Purpose and scope.

Part 518 of this chapter implements for the Department of the Army the provisions of Part 286 of this title. Contracting officers shall follow the instructions therein, in Army regulations referenced therein, and § 1.329 of this title and Part 286 of this title with respect to release of procurement information.

§ 591.329–50 Release of information by manufacturers, research organizations, educational institutions holding Army contracts or grants, and other commercial entities.

(a) AR 360–27 prescribes Department of the Army policies and clearance procedures with respect to release of procurement information by manufacturers, research organizations, and educational institutions holding Army contracts or grants, and by commercial firms or organizations which do not hold Army contracts or grants.

(b) Contracting officers shall comply with the requirements in AR 360–27 and shall include an appropriate clause in contracts for the production of military equipment, weapons, supplies, or for research and development and research analyses (see Part 597 of this subchapter).

§ 591.330 Total package procurement.

§ 591.330–6 Other guidance.

(a) Contract definition (CD) is not considered a part of the total package procurement (TPP) although it will often be a prerequisite since approval to proceed with development and production is normally not granted prior to completion of CD. TPP for engineering development, production and support normally shall be negotiated under the authority of 10 U.S.C. 2304(a)(14). When CD does not precede development, the use of 10 U.S.C. 2304(a)(10) as negotiation authority may be appropriate.

(b) Prior to using the TPP approach for any procurement, a request for approval of a detailed TPP plan shall be submitted to the Assistant Secretary of the Army (Research and Development) for joint approval of the Assistant Secretary of the Army (Installations and Logistics) and the Assistant Secretary of the Army (Research and Development). When CD precedes TPP, this submission may accompany the request for approval of the class determination and findings to cover the CD phase. The TPP plan shall contain salient information concerning the proposed engineering development, production, and support contract; such as a time-phased schedule of actions, incentives, production quantities, funding, maintenance, spares, production schedules, escalations, and options.

(c) In those instances where the use of 10 U.S.C. 2304(a)(10) is deemed appropriate, the proposed contract shall be submitted to the Assistant Secretary of the Army (Installations and Logistics) for a joint preaward review and notation by the Assistant Secretary of the Army (Installations and Logistics) and the Assistant Secretary of the Army (Research and Development).

§ 591.350 Extensions of contracts.

§ 591.350–1 Policy.

Contracts shall not be extended or renewed by exercise of options (see Subpart O, Part 1 of this title and § 591.1506) or otherwise for protracted periods of time for the purpose of eliminating competition or perpetuating the use of outmoded clauses, terms, and conditions. Contracts involving successive procurements or continuing services shall normally be closed out after not more than two extensions of the basic contract. An entirely new contract should be awarded for subsequent procurements of an item or service if further procurement is justified.

§ 591.350–2 Justification for extensions.

A complete justification, specific in detail, shall be placed in the contract file for each contract extension. Justifications may include, but are not limited to, such items as—

(a) The excessive burden to renumber Government property records;

(b) The increased costs or delay in production required to establish a new contract;

(c) The increased costs due to elimination of special concessions or other problems peculiar to a new contract;

(d) The substantial financial interests of the Government in severable and nonseverable facilities that are not readily transferable to another contractor; and

(e) The relatively small quantity remaining to be produced so that the entire contract can be completed within 6 months.

§ 591.350–3 First or second extensions.

The contracting officer may enter into a first or second extension of a basic contract when he makes the determinations in writing required by § 1.1505(c) of this title.

§ 591.350–4 Third or fourth extensions.

A third or fourth extension beyond the term of the basic contract shall be made only with advance written approval of

the head of procuring activity, his deputy, or a principal assistant responsible for procurement.

§ 591.350–5 Extensions beyond fourth.

Extensions of a basic contract beyond the fourth shall be made only with advance written approval of—

(a) The Director of Procurement and Production, U.S. Army Materiel Command, for procuring activities of that command;

(b) The SENTINEL System Manager (SENSM) for the SENTINEL System Organization; or

(c) The Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics) for all other procuring activities.

§ 591.350–6 Requests for approval of extensions.

Requests for approval of extensions pursuant to §§ 591.350–4 and 591.350–5 shall be submitted to reach the appropriate addressee at least 3 months prior to the expiration of the previously approved extension date of the contract. Justification for the extension shall be forwarded with the request for approval.

§ 591.350–7 Exceptions.

The approval requirements in §§ 591.350–3, 591.350–4, and 591.350–5 do not apply to the following types of contracts which may normally extend for longer periods of time. The contracting officer shall however, place written justification in the contract file supporting continuation of these contracts beyond 5 years.

(a) Basic agreements;

(b) Facilities contracts;

(c) Government-owned contractor-operated (GOCO) ammunition plants;

(d) Layaway contracts;

(e) Leases;

(f) Production engineering contracts;

(g) Research and development contracts;

(h) Utilities contracts;

(i) Communications services contracts; and

(j) Corps of Engineers contracts for title evidence.

§ 591.350–8 Limitation.

Nothing in §§ 591.350—591.350–8 shall be construed as—

(a) Authorizing the negotiation of any contract;

(b) Eliminating any requirements for approvals; or

(c) Constituting an exception from any limitation on the use of funds.

§ 591.351 Procurement and maintenance of motor vehicles and aircraft.

Numerous statutes have been enacted to control the procurement, including leasing, of motor vehicles and aircraft as well as their operation, maintenance, and repair.

§ 591.351–1 Authorizations.

Section 606 of the Department of Defense Appropriations Act, 1969, permits the leasing of personal property, such as motor vehicles and aircraft, using annual funds, for 12 months beginning at any time during a fiscal year. Construction funds have also been made available for the hire of passenger motor vehicles (Public Law 90–513, section 105).

§ 591.351–2 Limitations.

(a) Section 16 of the Act of August 2, 1946, as amended (31 U.S.C. 638a–c) restricts the expenditure of funds for the purchase or hire of passenger motor vehicles or for the purchase of aircraft, their operation, maintenance, and repair; and imposes ceiling prices on the purchase of passenger motor vehicles.

(b) Section 412(b) of the Act of August 10, 1959, as amended (Public Law 86–149; 73 Stat. 322; 10 U.S.C. 133nt) prohibits the appropriation of funds for the procurement of aircraft and tracked combat vehicles, and for their research, development, test, and evaluation, unless authorized by legislation enacted after certain specified dates.

(c) The annual Department of Defense Appropriations Acts frequently contain quantity and monetary limitations on the purchase of passenger motor vehicles.

(d) Reprograming action to obtain approval from the Secretary of Defense may be required in certain instances, such as, in the application of funds—

(1) To new line items not previously presented to Congress;

(2) To increases of items in excess of specified threshold values; or

(3) To items of special interest to one or more Congressional Committees, e.g. administrative aircraft.

§ 591.352 Open end contract information circulars (OECIC).

(a) Open end contract information circulars (OECIC) shall be published as Department of the Army circulars in the 718 series to provide general information relative to indefinite delivery type contracts (§ 3.409 of this title) established by contracting officers within the U.S. Army Materiel Command for requirements that are nationwide in scope or that cover a large geographic area. The Director of Procurement and Production, Headquarters, U.S. Army Materiel Command is responsible for determining the need for publication of an OECIC. OECIC's shall not be published for contracts for subsistence items or for petroleums, oils, and lubricants.

(b) An OECIC shall contain information such as—

(1) The contract number and period;

(2) A brief description of the item or items involved;

(3) A statement as to whether usage of the contract is mandatory or optional upon Department of the Army purchasing offices;

(4) A statement as to time allowed for delivery and whether delivery is f.o.b. origin, destination, or otherwise;

(5) Limitations, if any, on minimum or maximum quantities required to be ordered;

(6) The contractor's name and address to which delivery orders are to be mailed; and

(7) The address where contracting officers may forward a direct request for copies of the contract.

(c) Department of the Army contracting officers shall, upon receipt of an OECIC, determine applicability to his purchasing office and obtain copies of the contract for use when needed.

§ 591.353 Trading stamps.

(a) When a purchase is made from a supplier who offers trading stamps, the supplier shall be requested to offer a cash discount instead. If the supplier refuses to do so, the trading stamps shall be accepted.

(b) Installation/activity commanders shall establish a central point for the receipt and disposition of trading stamps. They may be redeemed either for cash or merchandise in a manner which results in the least administration and most advantageous return.

(c) If trading stamps are redeemed for cash, the proceeds shall be deposited to Miscellaneous Receipts of the Treasury.

(d) If trading stamps are redeemed for merchandise, the merchandise shall be distributed to Department of the Army organizations to be used for welfare or morale purposes, e.g. in hospitals, dayrooms, or service clubs. The property shall be picked up under property accountability procedures appropriate for the type of property received.

(e) No supplier shall be given preference over another solely because trading stamps are offered by one and not the other.

Subpart D—Procurement Responsibility and Authority

§ 591.401 Responsiblity of each procuring activity.

(a) Each head of procuring activity shall—

(1) Insure that all purchases subject to provisions of ASPR and APP made within his procuring activity or by offices for which he exercises the functions of head of procuring activity (see § 591.401–50) are made in accordance with ASPR and APP and only by contracting officers selected and appointed pursuant to § 1.405 of this title and § 591.405; and

(2) Maintain surveillance over procurement performance to insure adequacy of organizational structure, staffing, and training programs of each purchasing office, and that procurement actions taken reflect credit upon the Department of the Army.

(b) When not inconsistent with ASPR, APP, or other directives of higher authority, a head of procuring activity may delegate, with or without power of redelegation, the authority to carry out procurement functions with which he is charged.

§ 591.401–50 Exercise of functions of head of procuring activity.

In addition to those purchasing offices within his procuring activity, the following heads of procuring activities shall exercise the functions of a head of procuring activity for the offices designated—

(a) Director of Procurement and Production, Headquarters, U.S. Army Materiel Command, for the—

(1) U.S. Army Research Offices, Durham, N.C., and Arlington, Va.; and

(2) U.S. Military Academy, West Point, N.Y.

(b) Commanding General, 1st U.S. Army, for The Judge Advocate General's School.

(c) Commanding General, 6th U.S. Army, for the sole purpose of appointing and terminating appointments of contracting officers for the Armed Forces Radio and Television Service, Los Angeles, Calif.

(d) Commanding General, Military District of Washington, U.S. Army for the—

(1) The Adjutant General's Office;

(2) Industrial College of the Armed Forces; and

(3) National War College.

§ 591.401–51 Purchasing offices not assigned to a head of procuring activity.

The Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics), shall exercise the functions of head of procuring activity for any purchasing office within the Department of the Army which has not otherwise been assigned to a head of procuring activity.

§ 591.401–52 Procurement conferences.

(a) Heads of procuring activities are encouraged to hold annual procurement conferences for key procurement personnel of purchasing offices under the jurisdiction of the head of procuring activity to—

(1) Furnish guidance on new management and procurement techniques;

(2) Stimulate improvements in procurement methods and procedures;

(3) Resolve common or special procurement problems;

(4) Permit an exchange of information between procurement personnel of purchasing offices; and

(5) Promote a close relationship between head of procuring activity and purchasing office personnel.

(b) To the extent feasible, legal and supply personnel should be invited to attend procurement conferences.

(c) Department of the Army personnel will be made available to participate in procurement conferences upon request of the head of procuring activity.

§ 591.402 Authority of contracting officers.

(a) Subject to any limitation in his Certificate of Appointment, DD Form 1539, a contracting officer is granted all authority conferred by law, ASPR, APP, and head of procuring activity instructions. Unless otherwise specifically provided, the words "a contracting officer" shall also mean his duly appointed successor.

(b) A contracting officer may enter into, amend, modify, and take other actions with respect to contracts, provided—

(1) Any action he takes is within any limitation in his Certificate of Appointment;

(2) Any approvals by higher authority, including approval of award, has been obtained, if approval is required, and the contract embodies the award as approved;

(3) The contract is written on a standard or approved form, if such form is prescribed;

(4) The contract is authorized by law and complies with the provisions of ASPR and APP with respect to the use of contract clauses and does not contain any clause or involve any matter in conflict with the established policy of higher authority; and

(5) The contract complies with all other requirements of law, ASPR, and APP.

(c) Technical personnel and others whose duties may require contact and discussions with suppliers and contractors shall not authorize purchases or direct changes in work under contracts which may change the contractual terms or result in claims against the Government.

(d) Commanders and others having administrative supervision over contracting officers shall bear in mind that acts exceeding the delegated powers of a contracting officer do not bind the Government and accordingly shall not direct contracting officers to take actions which might expose the contracting officer to serious consequences. The office of the contracting officer shall be placed in the local organization structure at a level which shall protect it from intraorganizational pressure which might lead the contracting officer to perform improper acts exposing him to personal risk and the Department of the Army to criticism.

(e) Contracting officers shall not be assigned additional duties which will interfere with performance of their procurement duties.

(f) A contracting officer may, when it is in the interest of the Government, consider a contract completed even though an inconsequential quantity of supplies or services called for by the contract has not been delivered. This authority may be exercised only when—

(1) The action is within any limitation in his Certificate of Appointment;

(2) Payment is provided for on a unit price or other severable basis and no further performance is contemplated;

(3) Payment is made only for performance actually rendered;

(4) The undelivered portion is inconsequential and the cost of effecting a formal contract modification, including but not limited to taking termination action, is excessive in relation to the benefits to the Government from such action; and

(5) The contracting officer makes a written statement setting forth data identifying the contract, describing the circumstances to show clearly that the above criteria have been met, and stating that the contract is considered completed. This statement shall be distributed to the contractor, the finance and accounting officer concerned, any other appropriate Government official (e.g., consignee, inspector), and a copy shall be placed in the contract file. This statement shall not be necessary when quantities delivered fall within variations permitted by contract terms.

§ 591.402–50 Responsibilities of contracting officers.

(a) A contracting officer is responsible for knowing and observing the scope and limitations of his authority and shall not exceed the authority conferred upon him.

(b) A contracting officer serving as chief of a purchasing office is responsible for the efficient performance of the procurement mission assigned the purchasing office.

§ 591.403 Requirements to be met before entering into contracts.

§ 591.403–50 Availability of funds.

(a) Except as authorized in §§ 1.309, 1.318, and 1.322 of this title, and in paragraphs (b) and (c) of this section, before soliciting bids, proposals, or quotations and before awarding any contract, purchase order, or delivery order, the contracting officer shall—

(1) Insure that sufficient funds are available for the procurement contemplated; and

(2) Have in the files a citation of funds to be charged together with a statement in writing that funds are available; except when funding procedures are automated and furnish a consolidated commitment and obligation listing with a positive accounting trail from the solicitation, contract, purchase order, or delivery order to the consolidated listing.

(See AR 37–21, AR 37–42, and AR 37–102.)

(b) Indefinite delivery requirements type contracts (§ 3.409–2 of this title), basic agreements (§ 3.410–1 of this title), basic ordering agreements (§ 3.410–2 of this title), and blanket purchase agreements § 3.605 of this title) may be established prior to insuring fund availability; however, orders or calls against such contracts and agreements shall not be placed until funds have been made available.

(c) Bids, proposals, or quotations may be solicited for high priority requirements before obtaining assurance of fund availability when the initiating and approving authority determines that the requirement has a high enough priority to insure that it will not be canceled. In such cases the comptroller activity shall inscribe and sign the following statement on the purchase request—

This requirement is included or provided for in the financial plan for FY _____. The accounting classification will be _____. This statement is not assurance of fund availability.

No contract shall be awarded nor shall a prospective contractor be notified of a pending award until funds have been certified available by the comptroller activity.

(d) In soliciting bids, proposals, or quotations under paragraph (c) of this section, the contracting officer shall be mindful of the administrative expense to the Government of preparing solicitations and to offerors in preparing offers. The authority in paragraph (c) of this section shall not be construed to permit indiscriminate solicitations subject to the availability of funds. Further, the authority in paragraph (c) of this section is not intended to permit soliciting subject to the availability of "windfall" or "hoped for" funds, but is restricted to use in those cases where funds are reasonably assured of becoming available for obligation within the normal offer acceptance time.

§ 591.403–51 Legal review of solicitations.

(a) Solicitations which will result in contracts of $100,000 or more shall be reviewed for legal sufficiency by a staff judge advocate or other legal counsel before issuance by the contracting officer.

(b) Solicitations which will result in contracts of $10,000 or more but less than $100,000 shall be reviewed for legal sufficiency to the maximum extent consistent with the availability of legal counsel.

(c) Contracting officers shall obtain legal advice and assistance from the staff judge advocate or other legal counsel as warranted by the situation, e.g. use of clauses other than standard clauses in a solicitation. In this connection see § 1.108(a) (2) and (3) of this title and § 597.000 of this chapter.

(d) Heads of procuring activities shall insure that legal advice and counsel are available at procuring activity level when not available at purchasing office level.

§ 591.403–52 Review of contracts and modifications.

(a) Except as stated in paragraph (e) of this section, each proposed contract or modification of $10,000 or more, whether advertised or negotiated, shall be reviewed by Boards of Awards (see § 591.450–2). If approval of award at a higher level is required, the review shall be made before seeking approval.

(b) The purpose of the review shall be to insure that—

(1) Applicable provisions of ASPR, APP, and other procedural requirements are satisfied, e.g. § 3.102(c) of this title;

(2) The proposed action represents a sound business judgment from the Government's viewpoint; and

(3) The proposed contract or modification is legally sufficient.

(c) As a minimum the review shall cover the following four major aspects—

(1) The procurement documents themselves, e.g. clarity; consistency; completeness; use of required forms, clauses, and specifications;

(2) The procurement method, e.g. advertising, negotiation, completion, sole source, suitability for small business or labor surplus area set-aside, adherence to advance procurement (AP) plan or specific guidance from higher authority;

(3) Support for actions to be taken, e.g. existence of proper authority for use of negotiation and type of contract, if applicable; existence of Government estimate of price; preaward survey; adequacy of any justifications or determinations required of the contracting officer; need for technical data; adequacy of pricing data; inputs from members of the contracting officer's team; necessity for deviations from ASPR or APP; and

(4) Comparison with alternatives, e.g. how else could the procurement objective be accomplished, what are the relative advantages and disadvantages of each.

(d) The depth of review of a contract or modification and the number of Board members participating in the review may vary to the extent determined by the Board Chairman.

(e) The following need not be reviewed by Boards of Awards—

(1) Contracts for utilities services (see § 591.450–6) and modifications thereto;

(2) Contracts subject to the provisions of AR 715–6 [such contracts shall be reviewed in accordance therewith]; and

(3) Modifications for funding purposes which do not increase the total price of a contract beyond the amount contemplated in the contract previously reviewed by the Board.

§ 591.403–53 Contracts and modifications subject to approval.

If approval of a contract or modification by any officer or official of the Department of the Army other than the contracting officer is required (see § 591.450)—

(a) The Approval of Contract clause in § 7.105–2 of this title shall be used;

(b) All changes and deletions shall have been made before approval is requested; and

(c) The contract or modification shall not be binding upon the Government until so approved, even though signed by the contractor and the contracting officer.

§ 591.403–54 Departmental preaward review and secretarial notation.

(a) Proposed awards to be reviewed at Department of the Army level for notation by the Assistant Secretary of the Army (Installations and Logistics) shall consist of—

(1) Procurements determined by a head of procuring activity to be of such an intricate, complex, or controversial nature that the proposed procurement should warrant attention of the Secretary;

(2) Procurements determined by the Commanding Generals, U.S. Army Materiel Command or U.S. Continental Army Command or their designees to be of such importance as to warrant attention of the Secretary; and

(3) Procurements which, from time to time, the Secretary may specifically request to be forwarded for review and notation.

(b) Proposed awards to be reviewed at Department of the Army level for notation by the Assistant Secretary of the Army (Research and Development) shall consist of—

(1) Procurements funded from RDTE appropriations which are determined by the head of procuring activity to be of such an intricate, complex, or controversial nature that the proposed procurement should warrant attention of the Secretary;

(2) Procurements determined by the Commanding Generals, U.S. Army Materiel Command or other procuring activities or their designees to be of such importance as to warrant attention of the Secretary; and

(3) Procurements which, from time to time, the Secretary may specifically request to be forwarded for review and notation.

(c) Information relative to proposed procurements forwarded for Departmental preaward review and Secretarial notation shall be prepared.

(d) Submissions for postaward review and notation as may be directed from time to time shall be prepared.

§ 591.403–55 Procurements in support of Southeast Asia (SEA).

(a) All procurements in support of Southeast Asia (SEA) which propose a shift from a competitive to a noncompetitive basis shall be approved in advance at the following levels:

(1) From $10,000 to $25,000 at a level higher than the contracting officer;

(2) From $25,000 to 200,000 at a level higher than the contracting officer, after review by an appropriate Board;

(3) From $200,000 to $1 million by the head of procuring activity, his deputy, or a principal assistant responsible for procurement, after review by an appropriate Board;

(4) From $1 million to $10 million by the Assistant Secretary of the Army (Installations and Logistics); and

(5) Over $10 million by the Assistant Secretary of Defense (Installations and Logistics) after approval recommendation by the Assistant Secretary of the Army (Installations and Logistics).

(b) Any item for which a procurement package exists, whether or not previously purchased competitively but which, except for urgency, can now be purchased competitively, falls within the criteria of a shift from a competitive to a noncompetitive basis.

(c) Requests for approval of the Assistant Secretary of the Army (Installations and Logistics) or Assistant Secretary of Defense (Installations and Logistics) shall be concise and specific but in sufficient detail to demonstrate clearly the need to use noncompetitive procurement. As a minimum the following information shall be submitted by letter or message, marked "For Official Use Only," or classified higher, as appropriate, through the Deputy Chief of Staff for Logistics, Department of the Army, to the addressee in § 591.150(b)(7)—

(1) Proposed noncompetitive award.

(i) Description and quantity of supplies, work, or services being procured;

(ii) Estimated unit prices, total price, and profit (for FPI, CPIF, and CPFF contract types, furnish appropriate cost, profit, and total price data);

(iii) Name and address of proposed contractor;

(iv) Required delivery schedule included in proposed contract;
(v) Most favorable delivery schedule obtainable under competitive procurement (may be estimated based upon previous experience); and
(vi) Type of contract and negotiation authority.
(2) Current or previous (within 5 years) contractors.
(i) Name and address of contractors;
(ii) Quantity;
(iii) Unit price, total price;
(iv) First and last dates of production, highest monthly delivery requirements; and
(v) If currently producing, discussion of feasibility of exercising increase options, if any, plus feasibility and estimated cost of accelerating deliveries.
(3) Requirements and production analysis.
(i) Known requirements by month broken down by Army–SEA, MIPR–SEA, and other service, showing a beginning position;
(ii) Delivery schedule by month for all existing contracts, on a cumulative basis with a beginning position;
(iii) Net deficit between total requirements and monthly contractual deliveries;
(iv) Proposed delivery schedule compared with deficit;
(v) Quantities on MIPR from other services clearly identified; and
(vi) Quantities above program authorization clearly identified and adequately justified if normal procurement factor is exceeded.
(4) Brief narrative justification for shift from competitive to noncompetitive procurement.
(5) Brief narrative on why requirement cannot be met by diversion of present assets or diversion of material to be delivered in the same time frame required.
(6) Assets versus Program and Distributive Requirements in SEA.
(7) If Government property is to be furnished, include description, unit cost, source, and how procured.
(d) To permit timely response to requests for SEA procurement information, each purchasing office shall maintain a register of noncompetitive procurements approved pursuant to the foregoing instructions which shall show—
(1) Item description;
(2) Quantity;
(3) Total price;
(4) Contractor;
(5) Approval authority; and
(6) Date approved.

§ 591.405 Selection, appointment, and termination of appointment of contracting officers.

(a) In addition to the individuals named in § 1.405 of this title, the following individuals, or the designees of the individuals in subparagraphs (1), (2), or (3) of this paragraph may select, appoint, and terminate the appointment of contracting officers—
(1) The Under Secretary of the Army;
(2) The Assistant Secretary of the Army (Installations and Logistics);
(3) The Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics);
(4) The head of procuring activity, his deputy, or principal assistant responsible for procurement;
(5) An attaché;
(6) A chief of foreign mission (Army);
(7) A chief of a Department of the Army element of a joint military mission not operating under the cognizance of a major overseas command; and
(8) The Superintendent, U.S. Military Academy.
(b) The individuals named in paragraph (a)(4) of this section may redelegate to contracting officers they appoint the authority to appoint ordering officers (see § 591.452). Redelegations of this authority shall be made by entry on contracting officers' Certificates of Appointment, DD Forms 1539.
(c) The individuals named in paragraphs (a) (5) through (8) of this section shall exercise this authority without power of redelegation.
(d) The number of contracting officers appointed in any purchasing office shall be kept to the minimum essential for efficient operation.

§ 591.406 Contract administration functions.

§ 591.406–50 Contracting officers' representatives (COR's).

(a) A contracting officer may select and designate any Government employee, military or civilian, who is a U.S. citizen, to act as his authorized representative in administering a contract which is not assigned for administration to DCAS, subject to the authority and limitations in § 591.406–51. In selecting an individual for designation as his authorized representative, the contracting officer shall insure that the individual possesses qualifications and experience commensurate with the authorities with which he is to be empowered.
(b) Normally a COR shall be designated by name and position title. When it is not feasible to designate a COR by name and position title, a designation may be made by position title only, provided the designation is clearly understandable to all concerned.
(c) Each designation of a COR shall be in writing and shall clearly define the scope and limitations of his authority. Changes in the scope and limitations of authority may be made either by issuance of a new designation or by an amendment to the existent designation. When one COR is to act for the contracting officer on more than one contract, separate designations shall be issued for each contract.
(d) A designation of a COR shall remain in effect through the life of the contract concerned unless—
(1) Sooner revoked by the contracting officer or his successor; or
(2) Revoked by the reassignment of the individual designated.
(e) Nothing in this section shall be construed as—
(1) Requiring individuals responsible for accomplishment of broad functions of contract administration, such as engineering evaluation, testing, and inspection to be designated COR's; or
(2) Authorizing COR's to initiate procurement actions by use of imprest funds, blanket purchase agreements, or purchase orders, or to place calls or delivery orders under basic agreements, basic ordering agreements, or indefinite delivery type contracts.

§ 591.406–51 Authority and limitations.

(a) A COR may not be empowered to award, agree to, or sign any contract or modification thereto; except that—
(1) A COR may be empowered to issue change orders under the Changes clause in contracts for supplies and services and under the Changes [Standard Form 23] or subparagraph (a) of the Changes and Changed Conditions [Standard Form 19] clauses in construction contracts, provided such change orders do not involve a change in unit price, total contract price, quantity, quality, or delivery schedule;
(2) A COR may be empowered to issue or change shipping and marking instructions which may affect the unit or total contract price within the limits of funding authority certified to him, provided such shipping and marking instructions or changes thereto in no way change the total production quantity in the contract delivery schedule, and provided further that the COR furnishes a copy of each document issuing or changing shipping and marking instructions to the contracting officer concurrently with its release to the contractor;
(3) Area (resident) engineers acting as COR's for construction contracts for which Standard Forms 19 are used may be empowered to enter into modifications pursuant to the Changes and Changed Conditions clause in amounts not to exceed $1,000, provided the following statement is included in the contract—"The area (resident) engineer is the authorized representative of the contracting officer for the purpose of issuing instructions and entering into modifications pursuant to the Changes and Changed Conditions article of the General Provisions. The area (resident) engineer may execute on behalf of the contracting officer contract modifications where the amount involved in each instance does not exceed $_____."
(4) Area (resident) engineers acting as COR's for construction contracts for which Standard Forms 23 are used may be empowered to enter into modifications pursuant to the Changes or Differing Site Conditions clauses in amounts not to exceed $25,000, provided the following statement is included in the contract—"The area (resident) engineer is the authorized representative of the contracting officer for the purpose of issuing instructions and entering into modifications pursuant to the Changes or Differing Site Conditions articles of the General Provisions. The area (resident) engineer may execute on behalf of the contracting officer contract modifications where the amount involved in each instance does not exceed $_____."
(b) Within the limitations in paragraph (a) of this section, a COR may be

empowered to take any actions under a contract which could lawfully be taken by the contracting officer except where the terms of the contract itself specifically prohibit a COR from exercising such authority.

§ 591.406–52 Terminations of designations.

Terminations of designations of COR's shall be in writing and shall set forth the date upon which the termination is effective.

§ 591.406–53 Distribution and acknowledgement of designations.

(a) The original and one copy of each COR designation shall be furnished the COR who shall be required to acknowledge its receipt on the original thereof and return it to the contracting officer for retention in the appropriate contract file.

(b) Two copies of each designation shall be furnished the contractor concerned by the contracting officer. The contractor shall be required to acknowledge receipt on one copy and return it for retention in the appropriate contract file.

(c) Copies of each designation shall be furnished by the contracting officer to each contract administration office concerned and to any other Government official having a need therefor.

(d) Changes in designations and terminations of designations shall be distributed in the same manner and acknowledgment of receipt obtained from COR's and contractors for retention in the appropriate contract file.

§ 591.406–54 Maintenance of records.

(a) Contracting officers shall instruct COR's as to the type of records they shall maintain and the distribution thereof.

(b) If the designation of a COR is revoked for any reason before completion of the contract concerned, the COR shall turn over his records to the successor COR or forward his records to the contracting officer, as instructed by the contracting officer.

(c) When a contract is completed, the COR shall forward all records maintained by him to the contracting officer for retention in the appropriate contract file.

§ 591.450 Approval of awards of contracts and modifications.

§ 591.450–1 By contracting officers.

Except as prescribed in ASPR or in §§ 591.403–54, 591.403–55, and 591.450–2 through 591.450–11, contracting officers may award contracts and modifications without approval of award by higher authority, subject to limitations in their Certificates of Appointment and to limitations which may otherwise be imposed by the cognizant head of procuring activity.

§ 591.450–2 Boards of awards.

(a) Heads of procuring activities shall establish, or authorize installation/activity commanders to establish, Boards of Awards for the purpose of reviewing proposed awards of contracts and modifications in amounts of $10,000 or more (see § 591.403–52). The appointing authority shall appoint the members of Boards of Awards and shall designate a chairman and alternate chairman.

(b) Boards of Awards shall be composed of qualified procurement, legal, production, technical, and contract pricing representatives to the extent required and available.

(c) A contracting officer who is a member of a Board of Awards may participate in its proceedings on proposed contracts and modifications for which he is the contracting officer but may not participate in its findings and recommendations.

(d) A summary of actions taken by Boards of Awards shall be prepared and a copy placed in appropriate contract files.

§ 591.450–3 Personal and professional services.

(a) Statutory provisions (see § 22.201 of this title and § 612.205 of this chapter) require Secretarial action before an award may be made of certain contracts for the temporary or intermittent services of experts, consultants, or stenographic reporters. Procedures for submitting requests for Secretarial action are set forth in § 612.206 of this chapter.

(b) The Assistant Secretary of the Army (Installations and Logistics) normally makes annual determinations and findings required by statute and delegates authority to approve awards of contracts for the following services to designated heads of procuring activities, the delegation of authority being published in a Department of the Army Circular in the 715–2 series—

(1) Personal services of alien specialists necessary to meet the requirements of the Defense Scientists Immigration Program (DEFSIP–B) (formerly "Project 63");

(2) Personal services to be performed outside the United States of experts and consultants in the fields of radio announcing in Asian languages, geodetics, anthropology and chemical analysis;

(3) Stenographic reporting services, where the services of qualified Government personnel are not available, in connection with—

(i) Hearings before Industrial Security Clearance Review Offices;

(ii) Functions of The Inspectors General; and

(iii) Hearings before claims and appeals boards of procuring activities;

(4) Personal services of actors, narrators, and other technical and professional personnel necessary in connection with motion pictures or television productions;

(5) Personal services of experts or consultants in the field of law to be performed outside the United States; and

(6) Personal services of instructors and translators in special purpose foreign languages and dialects.

(c) When a head of procuring activity has been authorized to approve an award of a contract for one or more of the above services, submission for Secretarial action before award is not required.

§ 591.450–4 Construction or rehabilitation of facilities, and repairs and utilities.

Awards of contracts and modifications thereto for construction or rehabilitation of facilities, and repairs and utilities do not require approval of award by higher authority, unless otherwise required by the head of procuring activity, except for—

(a) Cost-plus-a-fixed-fee contracts which exceed $25,000 (see § 18.112 of this title);

(b) Concurrent firm fixed-price and cost-type construction contracts (see § 18.114 of this title); and

(c) Construction contracts with design architect-engineers (see § 18.115 of this title).

§ 591.450–5 Architect-engineer (A–E) services.

(a) Authority to contract for title I (the production and delivery of designs, plans, drawings, and specifications) and title II (the supervision and inspection of construction) architect-engineer (A–E) services in the Department of the Army is limited to those procuring activities to whom the authority is specifically delegated in the annual delegation of authority by the Assistant Secretary of the Army (Installations and Logistics). This delegation of authority is published in a Department of the Army Circular in the 715–2 series.

(b) The U.S. Army Corps of Engineers has been assigned responsibility for Department of the Army implementation of DoD directives pertaining to uniform standards for the selection of architect-engineer firms for professional services and to uniform standards for the employment and payment of architect-engineer services.

(c) The selection of a prospective A–E contractor is governed by procedures in § 18.402 of this title and OCE publication entitled "Uniform Standards for the Employment and Payment of Architect-Engineer Services." Requests for approval at a level above the Chief of Engineers pursuant to § 18.402–3 of this title shall be made through the Office, Chief of Engineers, to the addressee in § 591.150 (b)(1). Requests shall contain a statement of the selection proposed together with information in support thereof and sufficient facts to show compliance with ASPR and other DoD requirements.

(d) When a Secretarial delegation of authority imposes a dollar limitation upon award approval, the cognizant head of procuring activity subject to the limitation shall submit any proposed award of an A–E contract for title I or title II services, or both, to the addressee in § 591.150(b)(7) through the Office, Chief of Engineers, in the following cases—

(1) When the contract price for either title I or title II services, or both, exceeds the dollar limitation; or

(2) Prior to increasing an existing A–E contract price from an amount equal to

or less than the dollar limitation to an amount more than the limitation: *Provided, however,* That award approval of a modification at Secretarial level is not required, regardless of amount, if the proposed modification pertains to—

(i) A contract previously approved at Secretarial level; or

(ii) A contract having a previous modification which has been so approved;

and, in either case, contains no material deviation from provisions previously approved.

(e) To provide for uniform application of criteria for A–E contracts within the Department of the Army, any procuring activity (except the Corps of Engineers) granted authority to contract for A–E services shall coordinate plans for entering into such contracts with the appropriate U.S. Army Engineer Division or District before selection of the prospective contractor and before negotiation of the proposed contract.

(f) Authority to negotiate and award A–E contracts relating to Master Planning is restricted and subject to the specific limitations and exclusions in the annual Secretarial delegation of authority.

(g) Compensation for A–E services is subject to the following—

(1) The consideration which may be paid to an architect-engineer under any fixed-price type contract for title I services may not be more than six percent (6%) of the estimate cost of the public work or utilities project (or portion thereof) for which the architect-engineer undertakes to perform such services;

(2) The consideration which may be paid under a cost-reimbursement type contract for title I services is subject to the limitations in § 3.406–4(c) or § 3.406–5(c)(2) of this title, whichever is applicable;

(3) When an A–E contract calls for title I and title II services, the consideration to be paid the architect-engineer for title I services shall be stated separately therein;

(4) The A–E contract price shall be negotiated in accordance with the applicable parts and related exhibits of the OCE publication entitled "Uniform Standards for the Employment and Payment of Architect-Engineer Services."

(h) A personal services contract with an individual for A–E services is subject to the requirements in Part 22 of this title and Part 612 of this chapter. Requests for determinations shall be processed in accordance with § 612.206 of this chapter.

§ 591.450–6 Utilities services.

(a) The Chief of Engineers, acting for the Secretary of the Army, is the Department of the Army Power Procurement Officer and in this capacity is responsible for the administration of the purchase and sale of utilities services, and for policies, engineering, rates, and legal sufficiency in connection with all utilities services transactions and contracts relating thereto in which the Department of the Army has a monetary interest. The Assistant Secretary of the Army (Installations and Logistics) has delegated to the Chief of Engineers, with power to redelegate to his deputy, the authority to enter into contracts for public utility services not to exceed 10 years. (See § 591.5102 and ASPR S5–105.2.)

(b) The purchase of utilities services is governed by ASPR Supplement No. 5 and AR 420–41, which define the term "utilities services" and prescribe the required approvals for utilities services contracts and modifications. All procurements without contracts, as well as all contracts and modifications which, under the provisions of the above regulations, are subject to the approval of the Chief of Engineers (as Army Power Procurement Officer), and any requests for interpretation of or deviation from ASPR Supplement No. 5, shall be submitted to the Chief of Engineers, Attention: ENGMC–KU.

(c) Instructions relative to the sale of utilities services are contained in AR 420–41, AR 420–62, and AR 420–80. Contracts for the sale of utilities services shall be consummated by Sales Officers pursuant to AR 735–5.

§ 591.450–7 Communications services.

(a) The Assistant Secretary of the Army (Installations and Logistics) has delegated to the Commanding Generals, U.S. Army Strategic Communications Command, and U.S. Continental Army Command, with power of redelegation, the authority to enter into contracts for communications services for periods extending beyond a current fiscal year but not exceeding 10 years (see § 591.5102). Contracting officers to whom this authority has not been redelegated shall not procure communications services with annual funds for periods beyond the end of the current fiscal year.

(b) Procurement of leased communications circuits, of telephone and telegraph communications facilities and services, and of certain other communications services is normally accomplished by the issuance of a Communication Service Authorization (CSA), DD Form 428. CSA's are issued against outstanding basic agreements or indefinite quantity indefinite delivery type contracts established by the Defense Communications Agency, the U.S. Army Strategic Communications Command, or other central agency.

(c) Limitations on procurements accomplished by issuance of CSA's are—

(1) The CSA shall not call for communications services beyond the end of the fiscal year applicable to the annual funds available for obligation unless it is approved by one of the Secretarial delegates referred to in paragraph (a) of this section or unless the appropriate authority has been redelegated to the cognizant contracting officer;

(2) The CSA shall not call for communications services beyond the expiration date of the contract or agreement under which it is issued;

(3) The CSA shall not call for communications services for a period greater than 10 years or such lesser period as may have been specified in the redelegation to the contracting officer; and

(4) Each CSA shall contain a specific date within subparagraphs (1), (2), or (3) of this paragraph, as appropriate, upon which date the CSA expires of its own terms.

§ 591.450–8 Government-owned contractor-operated (GOCO) plants.

Heads of procuring activities are authorized to approve awards of contracts and modifications thereto for the maintenance or operation of, or for manufacture in, GOCO plants. This authority may be redelegated to the extent deemed necessary without authority of further redelegation.

§ 591.450–9 Management, operations research and ADP services, studies, and projects.

(a) Management studies and advisory services obtained by contract are explained in paragraph 2*a*, AR 1–110. With respect to such studies and services, contracting officers shall not solicit bids or proposals nor award contracts or modifications, including amendments, extensions, additions, or supplements which are of a substantive nature or which will require additional funding, without evidence of prior approval of the Assistant Secretary of the Army (Financial Management).

(b) Operations research studies or projects obtained by contract are explained in paragraph 2*b*, AR 1–110. With respect to such studies or projects, contracting officers shall not solicit bids or proposals nor award contracts or modifications, including amendments, extensions, additions, or supplements which are of a substantive nature or which will require additional funding, without evidence of prior approval of—

(1) The Assistant Secretary of the Army (Research and Development) for operations research studies or projects which are estimated to cost in excess of $100,000;

(2) The Chief of Research and Development, Department of the Army, for operations research studies or projects which are estimated to cost $100,000 or less and which use RDTE funds;

(3) The sponsoring Department of the Army Staff agency after coordination with the Assistant Vice Chief of Staff, Army (Director of Studies), for operations research studies or projects sponsored by Department of the Army staff agencies which are estimated to cost $100,000 or less and which use OMA funds; or

(4) The sponsoring major Department of the Army command for operations research studies or projects sponsored by major Department of the Army commands which are estimated to cost $100,000 or less and which use other than RDTE funds.

(c) Automatic data processing (ADP) services, studies or projects obtained by contract are explained in paragraph 2*c*, AR 1–110. With respect to such services, studies, or projects, contracting officers shall not solicit bids or proposals nor

award contracts or modifications, including amendments, extensions, additions, or supplements which are of a substantive nature or which will require additional funding, without evidence of prior approval of the Assistant Secretary of the Army (Financial Management) for ADP services, studies, or projects in excess of $10,000. Contracting for ADP services, studies, or projects through a series of incremental type contractual arrangements involving more than one contract of $10,000 or less, none of which provides a usable end product, is prohibited.

(d) Mixed contract studies are explained in paragraph 2*d*, AR 1–110. Contracting officers shall be alert to requests for mixed contract studies which have not been classified under any one of the above as "Management," "Operations Research," or "Automatic Data Processing." Contracting officers shall insure that appropriate approval has been obtained, as determined by the Comptroller of the Army (COA) prior to soliciting bids or proposals or awarding contracts or modifications, including amendments, extensions, additions, or supplements which are of a substantive nature or which will require additional funding.

(e) AR 1–110 is not applicable to the employment of experts or consultants on a per diem basis (see § 591.450–3).

§ 591.450–10 Leases of Government personal property.

(a) The Assistant Secretary of the Army (Installations and Logistics) has delegated to heads of procuring activities, with power of redelegation to a principal assistant and no further, the authority to lease personal property under the control of the Department of the Army under specified conditions (see § 591.5102).

(b) Proposed leases and modifications thereto of Government personal property shall be submitted for approval to the addressee in § 591.150(b)(7), except when approval authority has been delegated to heads of procuring activities.

§ 591.450–11 Automatic data processing equipment (ADPE).

(a) In connection with the award of contracts for acquisition or use of ADPE, see § 3.1100 of this title and AR 18–1 and 18–2.

(b) If the proposed equipment is to be used for classified information, consideration shall be given to AR 380–46(4) before requests for ADPE procurement are submitted.

§ 591.451 Participation of legal counsel in the procurement process.

(a) It is Department of the Army policy that—

(1) Procurement legal counsel participate fully in the entire procurement process from the stage of advance procurement planning to contract completion or termination and closeout; and

(2) The contracting officer's "team" concept set forth in § 3.801–2(a) of this title be used in all procurements, negotiated or advertised, in amounts of $10,000 or more, with the procurement legal counsel being a member of the team and being responsible for insuring the legal sufficiency of all actions taken by the team.

(b) Procurement legal counsel shall participate in the folowing stages of procurement in addition to those areas in which existing regulations require their participation—

(1) Review advance procurement (AP) plans;

(2) Serve as a member of Boards of Awards (see § 591.450–2); and

(3) Review and concur in all written determinations and findings relating to contracts and modifications in amounts of $10,000 or more.

§ 591.452 Ordering officers.

§ 591.452–1 Policy.

(a) It is Department of the Army policy that—

(1) Contracting officers be responsible for the efficient performance of the procurement mission assigned the installation/activity concerned; and

(2) The procurement function not be decentralized by the indiscriminate appointment of ordering officers.

(b) Ordering officers may be appointed outside of a centralized purchasing office or at isolated locations for the purposes in paragraph (c) of this section and within the limitations stated in the ASPR or APP paragraphs referenced in paragraph (c) of this section, only when—

(1) The appointing authority (see § 591.405(b)) determines in writing that the appointment of an ordering officer is essential for the efficient operation of the procurement mission and is not made for the purpose of decentralizing the procurement function;

(2) The idividual selected for appointment satisfies the considerations in §1.405–1(a) of this title;

(3) The individual selected for appointment has the time available to perform the functions for which he is appointed without redelegating his authority to others; and

(4) The appointing authority maintains a file containing justification for the appointment of each ordering officer and qualifications of each individual so appointed.

(c) Purposes for which ordering officers may be appointed and references as to limitations of their authority are—

(1) To make purchases using imprest funds (see § 593.607–4 of this chapter);

(2) To make over-the-counter purchases using Standard Forms 44 or DD Forms 1155 (see § 593.68–9 of this chapter);

(3) To place delivery orders or oral calls against Brand Name Contracts published in Defense Supply Agency Supply Bulletins in the 10–500 or 10–600 series (see § 594.5102 of this chapter);

(4) To place delivery orders or oral calls against Federal Supply Schedule contracts (see § 595.101 of this chapter);

(5) To place calls against indefinite delivery type contracts awarded by contracting officers of the Military Departments for the preparation of personal property for shipment, Government storage, and performing intracity or intra-area movement, provided contract terms so permit (see § 597.1650 of this chapter);

(6) To place Service Orders for Household Goods Against Commercial Warehousing and Related Services for Household Goods contracts (see § 597.1651 of this chapter); or

(7) To place delivery orders against indefinite delivery type contracts awarded by contracting officers of the Military Departments, provided the contract terms so permit and provided all orders placed are within monetary limitations set forth therein.

§ 591.452–2 Appointment.

(a) Ordering officers shall be appointed by a letter of appointment substantially in the following format, wording, or paragraphs inapplicable to the appointment being omitted—

SUBJECT: Appointment of Ordering Officer (Alternate Ordering Officer).

TO: (Address to individual by name, indicating rank or grade, section or location, and activity or installation.)

1. *Appointment.* Under Army Procurement Procedure 1–452, you are appointed an Ordering Officer (Alternate Ordering Officer) for the purposes set forth in paragraph 2 herein. Your appointment shall become effective (enter date) and shall remain effective unless sooner revoked (until expiration of the contract(s) enumerated in paragraph 2 herein, or) until you are reassigned or your employment is terminated. You are responsible to and under the technical supervision of the (enter name of installation or activity) Contracting Officer for your actions as an Ordering Officer.

2. *Authority, Limitations, and Requirements.* Your appointment is subject to the use of the method(s) of purchase and to the limitations and requirements stated below:

a. Subject to your insuring that local purchase authority exists for the transaction, you may make purchases using imprest funds for payments therefor and using Standard Forms 1165 (Receipt for Cash—Subvoucher), provided all of the following conditions are satisfied:

(1) The aggregate amount of a purchase transaction is not in excess of $100, or $250 under emergency conditions. You may not split purchases to avoid this monetary limitation:

(2) The supplies or nonpersonal services are available for delivery within 30 calendar days, whether at the supplier's place of business or at destination; and

(3) The purchase does not require detailed technical specifications or technical inspection.

b. Subject to your insuring that funds are available and that local purchase authority exists for the transaction, you may make over-the-counter purchases using Standard Forms 44 (Purchase Order—Invoice—Voucher) or DD Forms 1155 (Order for Supplies or Services) provided all of the following conditions are satisfied:

(1) The aggregate amount of a purchase transaction is not in excess of $250. You may not split purchases to avoid this monetary limitation;

(2) Supplies or nonpersonal services are immediately available; and

(3) One delivery and one payment shall be made.

c. Subject to your insuring that funds are available and that local purchase authority exists for the transaction, you may place delivery orders (DD Forms 1155) without monetary limitation against:

(1) Brand Name contracts published in Defense Supply Agency Brand Name Supply Bulletins in the SB 10-500 series; and

(2) Defense Personnel Support Center requirements contracts for subsistence items.

d. Subject to your insuring that funds are available and that local purchase authority exists for the transaction, you may place delivery orders (DD Forms 1155) without monetary limitation against:

(1) Defense Petroleum Supply Center requirements contracts;

(2) General Services Administration for Federal Stock File items maintained by the Defense Materials System of the General Services Administration; and

(3) The following indefinite delivery type contracts, copies of which are attached: (List contracts by number and name of Contractor).

e. Subject to your insuring that funds are available and that local purchase authority exists for the transaction, you may place Service Orders for Household Goods (DD Forms 1164) against Commercial Warehousing and Related Services for Household Goods contracts for military and civilian personnel, subject to the criteria and procedures prescribed in AR 55-42 and AR 743-455 and provided that no Service Order shall be in an amount in excess of $2,500.

f. You are responsible for (i) distributing administrating delivery orders that you place, (ii) establishing controls necessary to insure that all contract terms and conditions are met and that supplies or nonpersonal services ordered conform to contract requirements before acceptance is made or payment authorized, and (iii) reporting deficiencies in contractor performance promptly to the contracting officer who awarded the contract against which the delivery order was placed. You may not make any changes in the terms or conditions of any contracts against which you place delivery orders.

3. *Standards of Conduct and Procurement Reporting Requirements.*

a. You shall comply with the standards of conduct prescribed in AR 600-50, standards of Conduct for Department of the Army Personnel, and shall review the regulation at least semiannually. You shall sign a statement that you have read and understand the regulation and shall furnish one copy of your signed statement to the Contracting Officer to whom you are responsible at the time of acknowledging receipt of your authorization.

b. You shall furnish the Contracting Officer to whom you are responsible such information as he may require for procurement reporting purposes in the manner and at the time specified by him.

4. *Termination of Appointment.*

a. Your appointment may be revoked at any time by the undersigned authority or his successor and shall be terminated in writing, except that no written termination of your appointment shall be made upon expiration of contracts enumerated in paragraph 2 herein unless such contracts are terminated prior to the expiration dates established therein.

b. Should you be reassigned from your present position or should your employment be terminated while this appointment is in effect, you shall promptly notify the appointing authority in writing so that your appointment may be terminated.

(Typed Name and Title of Appointing Authority)

(b) Individuals appointed as ordering officers shall be required to acknowledge receipt, in writing, of their letters of appointment.

(c) Appointing authorities shall make distribution of letters of appointment to ordering officers, imprest fund cashiers, disbursing officers, and such other interested personnel as may be necessary.

(d) Individuals to whom ordering officers are responsible shall notify contractors of the names of ordering officers appointed to place delivery orders against their contracts, except that such notification is not required when ordering officers are named in contracts. Notifications to contractors may be accomplished by furnishing contractors with copies of ordering officers' letters of appointment.

§ 591.452–3 Orientation and instruction.

Individuals to whom ordering officers are responsible shall orient and instruct them either personally or in writing in—

(a) The proper use of the procedure the ordering officer will be authorized to use;

(b) The standards of conduct for Department of the Army personnel prescribed in AR 600-50; and

(c) The preparation and submission of information for procurement reporting purposes.

§ 591.452–4 Surveillance.

(a) Ordering officers shall be under the technical supervision of the contracting officer who appointed them or the individual designated by the appointing authority in those cases where appointment is made by persons designated in § 591.405.

(b) Activities of ordering officers shall be inspected or reviewed at least twice each year by the appointing authority or his designee, an individual well qualified in procurement procedures used by ordering officers. Reviews need not be made on site.

(c) Inspection or review findings shall be written and shall include specific comments as to whether or not the ordering officer is—

(1) Operating within the scope and limitations of his authority;

(2) Maintaining the standards of conduct prescribed in AR 600-50;

(3) Splitting purchase transactions to avoid monetary limitations;

(4) Delegating his authority to others; and

(5) Submitting correct and timely information for procurement reporting purposes.

(d) Copies of inspection and review findings shall be retained for 1 year in the files of ordering officers and of inspectors or reviewers.

(e) Should an appointing authority find that an ordering officer is not properly performing his duties or fails to take prompt action to correct deficiencies noted in inspections or reviews, the appointing authority shall terminate the appointment of the ordering officer.

§ 591.452–5 Termination of appointment.

(a) The appointment of an ordering officer shall remain in effect until the ordering officer is reassigned or his employment is terminated, but it may be revoked at anytime by the appointing authority or his successor. No revocation, however, shall be made to take effect retroactively.

(b) Terminations of appointments, except when contracts against which ordering officers are appointed to place delivery orders expire upon the dates established therein, shall be in writing substantially in the following format—

SUBJECT: Termination of Appointment as Ordering Officer (Alternate Ordering Officer).

To: (Address same as letter of appointment.)

Your appointment as Ordering Officer (Alternate Ordering Officer) made by letter of appointment issued (enter date) is terminated effective (enter date) without prejudice to any actions taken pursuant thereto.

(c) Individuals to whom ordering officers are responsible shall notify contractors, imprest fund cashiers, disbursing officers, and other interested personnel, of terminations of appointments of ordering officers. Such notifications shall be in writing and may be accomplished by furnishing copies of the termination of appointment letter.

§ 591.452–6 Other individuals authorized to make purchases.

(a) Individuals performing any of the following procurement actions shall be exempt from the requirements of §§ 591.452–1(b) and 591.452–2 through 591.452–5—

(1) Individuals authorized by a contracting officer to place calls against blanket purchase agreements (see § 3.605 of this title and § 593.605 of this chapter);

(2) Department of the Army aviators and masters of Army-owned or operated vessels authorized by AR 715-232 to make emergency purchases under conditions prescribed therein (see §§ 593.608-9 and 593.609 of this chapter);

(3) Individuals to whom U.S. Government National Credit Cards are issued for use while on official travel (see §§ 593.609 and 595.101 of this chapter); and

(4) Individuals authorized by AR 725-50 to order supplies from General Services Administration Stores Depots using MIL-STRIP procedures (see § 595.201 of this chapter).

(b) Individuals in paragraph (a) (1) through (3) of this section shall—

(1) Comply with requirements in § 591.113–1;

(2) Prepare and submit information for procurement reporting purposes to the contracting officer in the manner specified by him.

2. New § 591.601–1 is added; a new paragraph (d) is added to § 591.651; and new § 591.652 is added, as follows:

§ 591.601–1 General.

The record of firms or individuals debarred or suspended by the Department of the Army is maintained by the Assistant Judge Advocate General for Civil Law as the authorized representative of the Secretary and the Assistant Secretary of the Army (Installations and Logistics).

§ 591.651 Responsibilities.

* * * * *

(d) The Advisor on Fraud Matters to the Assistant Secretary of the Army (Installations and Logistics) is responsible for and has delegated authority to supervise and exercise surveillance over procurement fraud, allied matters of bribery, and kickbacks and other criminal conduct in connection with procurement activities by contractors and their personnel and by military personnel or civilian employees of the Department of the Army. The Chief of the Debarment and Suspension Branch, Litigation Division, OTJAG, is the Advisor on Fraud Matters to the Assistant Secretary of the Army (Installations and Logistics).

§ 591.652 Delegation of authority by head of procuring activity.

A head of procuring activity may delegate authority under this subpart to his deputy, a principal assistant responsible for procurement, or to his legal advisor. Any delegation shall be in writing and one copy shall be forwarded at time of issuance to the addressee in § 591.150(b)(6).

3. New §§ 591.705, 591.705–2, and 591.705–4 are added; § 591.750 is revised; and new §§ 591.750–1 and 591.750–2 are added, as follows:

§ 591.705 Cooperation with the Small Business Administration.

§ 591.705–2 SBA representatives.

SBA representatives shall comply with § 591.113–1.

§ 591.705–4 Certificates of competency.

Documents required to be forwarded to the Assistant Secretary of the Army (Installations and Logistics) shall be forwarded to the addressee in § 591.150(b)(6).

§ 591.750 Army Small Business and Economic Utilization Council.

§ 591.750–1 Establishment and membership.

A Department of the Army Small Business and Economic Utilization Council is established with the Department of the Army Small Business and Economic Utilization Policy Advisor as its Chairman. Members of the Council shall be representatives of Headquarters, U.S. Army Materiel Command, U.S. Continental Army Command, and such other commands or procuring activities as the Chairman may designate from time to time.

§ 591.750–2 Purpose and function.

(a) The purpose of the Council is to assist Army Small Business and Economic Utilization Advisors in developing uniform policies and procedures concerning small business and labor surplus area matters.

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

(c) The Council shall consider recommendations from field activity Army Small Business and Economic Utilization Advisors made through advisors at head of procuring activity level for the purpose of making the small business or labor surplus area programs more effective.

4. New Subpart H is added; new §§ 591.1002 and 591.1002–6 are added; §§ 591.1006, 591.1006–50 and 591.1006–51 are revoked; and new §§ 591.1050, 591.1050–1, 591.1050–2, 591.1050–3, 591.1051, 591.1051–1, 591.1051–2, 591.1051–3, and 591.1051–4 are added, as follows:

Subpart H—Labor Surplus Area Concerns

§ 591.802 General policy.

(a) The booklet entitled "Area Trends in Employment and Unemployment," which establishes the boundaries of each labor market area and lists communities included in each area, is distributed by the Department of Labor directly to Department of the Army purchasing offices.

(b) The responsibility for administration of the Labor Surplus Area Program is assigned to Small Business and Economic Utilization Advisors as a dual function (see § 591.704–3).

§ 591.1002 Dissemination of information relating to invitations for bids and requests for proposals.

§ 591.1002–6 Paid advertisements in newspapers and trade journals.

(a) The Assistant Secretary of the Army (Installations and Logistics) has delegated to heads of procuring activities, their deputies and principal assistants responsible for procurement, and to certain other delegees, without power of redelegation, the authority to approve the publication of paid advertisements in newspapers (see § 591.5102).

(b) Policies with respect to use of paid advertising in recruitment of civilian personnel are contained in Subchapter 1, Federal Personnel Manual (FPM) 332 and are implemented in Department of the Army Civilian Personnel Regulation (CPR) 332, Subchapter 1.

§ 591.1006 Release of procurement information. [Revoked]

§ 591.1006–50 Congressional notification of proposed awards. [Revoked]

§ 591.1006–51 Release of information by manufacturers, colleges, and universities holding Army contracts or grants, and other commercial entities. [Revoked]

§ 591.1050 Congressional notification of proposed awards.

(a) The report required by this paragraph pertains to—

(1) Advance information on proposed contract awards in amounts of $1 million or more; and

(2) Postaward information on contracts under $1 million which are of significant local community or congressional interest or which have public relations aspects.

(b) Each purchasing office in the United States, including Alaska and Hawaii, shall report in accordance with instructions herein; except that purchasing offices under the jurisdiction of Headquarters, U.S. Army Materiel Command and its subordinate commands shall report through Headquarters, U.S. Army Materiel Command in accordance with AMC Regulation 715–2.

§ 591.1050–1 Proposed contract awards of $1 million or more.

(a) This reporting requirement applies to—

(1) All contracts of $1 million or more, including—

(i) Letter contracts when the amount being obligated at the time of letter contract award or definitization is $1 million or more; and

(ii) Work placed by means of an approved project or expenditure order in a Government-owned installation or activity when the amount of the project or expenditure order is $1 million or more;

(2) Modifications to existing contracts when the amount being obligated is $1 million or more and the scope of the work to be performed is increased, e.g. additional quantities being added, engineering changes which require additional future work to be performed; and

(3) Multiyear procurements when the total multiyear amount will be $1 million or more—

(i) An initial notification shall be made when the aggregate amount of the contract is $1 million or more even though the first year increment may be less than $1 million;

(ii) The quantities and monetary amounts related to the several fiscal years involved shall be included in the initial notification;

(iii) Notifications of subsequent yearly increments shall be related to previous notifications and shall include pertinent total information for the previous, current, and future fiscal year quantities and monetary amounts; and

(iv) Notifications of increments subsequent to the initial notification shall be made only if the current increment is $1 million or more.

(b) Contracting officers shall telephone the information called for in § 591.1050–3 to the Chief, Procurement Statistics Office, Data Processing Center, Office of the Deputy Chief of Staff for Logistics, Washington, D.C., at OXford 5–3032, OXford 7–2016, or OXford 5–3058, at least twenty (20) working hours before award. Information shall be furnished in the sequence set forth in § 591.1050–3.

(c) No award shall be made before 1600 hours Washington, D.C., time without prior approval obtained through the ODCSLOG Procurement Statistics Office (see paragraph (b) of this section).

(d) National or local releases to the wire services or to contractors shall not be made prior to the established award time even on a "hold for release time" basis. Time of release of replies to congressional inquiries pertaining to the award of proposed contracts which have been received directly by addressees shall be coordinated with the Office, Chief of Legislative Liaison, Department of the Army, before dispatch.

§ 591.1050–2 Contracts under $1 million.

(a) Contracting officers shall furnish the information called for in § 591.1050–3 for all contracts under $1 million which are of significant local community or congressional interest or which have public relations aspect by mail or message directed to Department of the Army, Attention: SACLL, Washington, D.C. 20310, or by telephone to the Special Operations Division, SACLL, at OXford 7–8131.

(b) Information shall be furnished in the sequence in § 591.1050–3.

§ 591.1050–3 Required information.

Information required to be furnished pursuant to §§ 591.1050–1 and 591.1050–2 shall consist of—

(a) Name and address of purchasing office;

(b) Statements as to whether a contract or modification of a contract is to be awarded; or, in the case of contracts under $1 million, has been awarded;

(c) Statement as to whether the contract is a letter contract or definitization of a letter contract, when applicable;

(d) Monetary amount and type of funds used (when multiple funds are involved, the monetary amount for each type shall be given, e.g. PEMA $1,200,000; OMA $100,000);

(e) Statement as to whether the contractor is a small or large business;

(f) Name and complete address of contractor, including ZIP code;

(g) Date and Washington, D.C., time award will be made; or, in the case of contracts under $1 million, date and Washington, D.C., time award was made (for the purpose of this report, the date of award for letter contracts shall be the mailing date to the contractor plus 1 working day);

(h) Quantity and description of supplies or services—

(1) The description shall be in adequate detail and shall include the end use or background of the supplies or services described in layman's terminology so that the purpose may be readily understood by persons not associated with the military;

(2) The description shall be presented in news media press release format giving sufficient background information to describe the procurement properly; and

(3) If the award is for a classified item, that fact shall be stated and no further description given;

(i) Statement as to who will perform the work, the contractor or a firm other than the contractor (if the latter, give name and complete address including ZIP code);

(j) Location where work will be performed—

(1) If the work is to be performed at more than one location, list the names and complete addresses of all plants or contractors together with the monetary amount or percentage of work involved at each location; and

(2) If for any reason, the location where work is to be performed is changed, prior to or after award but after the required initial information has been reported, the change in location or locations of work performance shall be telephoned or reported by the most expeditious means to the appropriate addressee in §§ 591.1050–1 or 591.1050–2, giving the reasons for the change in location or locations of work performance and the monetary amount or percentage of work involved at each location;

(k) Statement as to whether the place of performance is or is not in a labor surplus area;

(l) Extent of competition (this shall normally consist of the number of solicitations mailed and the number of offers received; sole source; in-house or directed procurement; and other items as may be pertinent);

(m) Type of contract used;

(n) Contract number; and

(o) Total contract amount of the reported award is modification.

§ 591.1051 Advance Planning Procurement Information (APPI) Program.

§ 591.1051–1 Policy.

It is Department of the Army policy to make available to Industry advance planning procurement information (APPI) on Department of the Army planned materiel programs on a continuous direct contact basis.

§ 591.1051–2 Purpose.

The purpose of the APPI program is to—

(a) Attract additional responsible bidders and offerors;

(b) Broaden the competitive base for any one procurement;

(c) Obtain better prices;

(d) Provide a reasonable basis for Industry to expand its facilities;

(e) Alleviate severe production fluctuations in any one commodity field, geographic area, or contractor facility; and

(f) Achieve greater Industry participation in all procurement-related Department of the Army programs.

§ 591.1051–3 Responsibilities.

(a) The Army Small Business and Economic Utilization Policy Advisor, Office of the Assistant Secretary of the Army (Installations and Logistics), is responsible for continuing supervision and surveillance of the APPI program.

(b) Heads of procuring activities responsible for national buying of Army materiel (except for the U.S. Army Security Agency) shall establish in geographical areas selected by them, Army/Industry Materiel Information Liaison Offices (AIMILO) to carry out the APPI program.

(c) Where AIMILO's are established, the activity shall make available all pertinent planning documents necessary for accomplishment of the APPI program. Overclassification of APPI shall be avoided. Information suitable for downgrading when taken out of classified documents shall be downgraded for use in unclassified APPI. Classified APPI shall be furnished Industry through existing security channels.

(d) Such pertinent information as is contained in the Department of the Army's planning documents shall be released to Industry in accordance with § 591.1051–4 at the earliest practicable time in the planning cycle, national security permitting. Information released shall be packaged in a form which shall be easily transmitted, easily stored, and capable of being easily understood. Information shall be released so as not to create a competitive advantage for any one or a group of firms.

(e) Semiannually all APPI items published in the Commerce Business Daily, which still describe "active" APPI, shall be reproduced for distribution to all participants in the APPI program.

§ 591.1051–4 Functions of AIMILO's.

(a) AIMILO's shall—

(1) Each month review source documents for candidate items for the APPI program (these documents shall include but not be limited to the appropriate Army Materiel Plan (AMP), the appropriate Item Management Plan (IMP), and the annual shopping list updated);

(2) Select from the candidate items those items which promise the most benefit to the Government and to Industry when included in the APPI program; i.e. items characterized by but not limited to a high dollar annual buy value, by a scarcity of available sources, by the immediacy of need by the Government, or by future importance in Army Force Structure;

(3) Research selected items for pertinent historical data, current and forecast procurement actions, quantities, production rates, last known costs, Government-furnished equipment, availability of technical data, amounts of material required, and other information which may assist a possible supplier in making a bid or no bid decision;

(4) Prepare a synopsis (see § 1.1003–9 of this title) of the APPI for publication in the Commerce Business Daily on the first Tuesday of the month (this publication date shall be the national release date of APPI on the advertised item);

(i) Prior to the publication date the AIMILO generating the APPI synopsis shall distribute it to the Army Small Business and Economic Utilization Policy Advisor and to all other AIMILO's (the APPI shall be accompanied by any and all additional background information available such as drawings, photographs, and manuals) and shall mail it to all firms currently on bidders mailing lists for the specific item, insuring that receipt does not occur before the national release date;

(ii) After the national release date, all AIMILO's shall use the APPI synopsis and all supporting technical data as described in subdivision (i) of this subparagraph to respond to oral and written inquiries from a firm or firms;

(iii) AIMILO's shall forward a copy of the APPI synopsis to the installation/activity Public Information Office for further dissemination in other public media on or after the national release date;

(5) Place the name of any firm or firms on the current bidder's list for any or all specific item(s), when so requested in accordance with § 2.205–1 of this title; and

(6) Immediately prepare new APPI and publish a new synopsis in the Commerce Business Daily when any major change occurs in the planning information for a specific item which had been previously included in the APPI program (AIMILO's shall follow the same procedure in publishing and distributing changes in information as was followed in handling the original).

(b) Each AIMILO shall act as the local industry service agent for APPI generated by all other AIMILO's for a period of 90 calendar days. Thereafter, such APPI shall be destroyed and respondents shall be referred to the generating AIMILO. Each AIMILO shall maintain a permanent file of self-generated APPI.

(c) In addition to implementing the APPI program, AIMILO's shall act as the focal point for all representatives of industry or the surrounding community who seek information about Department of the Army procurement programs; and shall undertake such other Army/Industry liaison activities as may be prescribed by higher authority.

5. Section 591.1202 is revised; §§591.1206 and 591.1206–2 are revoked; new § 591.1250 is added; Subpart M is revoked; and § 591.1506–50 is revised, as follows:

§ 591.1202 Mandatory specifications.

Federal and Military Specifications need not be used for purchases described in § 1.1202(b) of this title but may be used at the option of the contracting officer.

§ 591.1206 Purchase descriptions. [Revoked]

§ 591.1206–2 Brand name or equal purchase descriptions. [Revoked]

§ 591.1250 Unduly restrictive specifications.

(a) Specifications which unconditionally require that items bear the label of the Underwriters Laboratories, Inc., or similar organizations, have been generally held to be unduly restrictive and not in conformance with sound procurement practices (33 C.G. 573; MS Comp. Gen. B–116236, Dec. 5, 1955).

(b) Accordingly, the following wording shall be used in specifications where such labels are required—

The Contractor shall submit proof that the (state item) which he proposes to furnish under this specification conforms to the standards of the (list appropriate testing organization(s)). The label of (listed testing organization(s)) shall be accepted as conforming to this requirement.

In lieu of the label, the Contractor may submit a written certification from any nationally recognized testing agency, adequately equipped and competent to perform such services, that the (state item) has been tested and conforms to the standards, including methods of test, of the (listed testing organization(s)).

Subpart M—Transportation [Revoked]

§ 591.1506–50 Option to renew contract for additional period.

(a) The clause set forth in paragraph (d) of this section may be used in negotiated contracts for services funded by OMA appropriations when, in addition to the requirements in § 1.318 of this title and this subpart—

(1) The initial contract period expires at the end of a fiscal year and a renewal or extension thereof will likewise be for a period expiring at the end of the succeeding fiscal year; or

(2) An overlap in services and the transfer of inventory will be required between the predecessor and successor contractors.

(b) Before exercising the right of the Government to call for negotiation of a renewal or extension of the contract pursuant to the clause in paragraph (d) of this section, the contracting officer shall—

(1) Insure that, if funds are not then available, they may reasonably be expected to be available to continue the work for the succeeding period;

(2) Determine that approval action under § 591.350 has been completed for the renewal or extension; and

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

(c) Before the negotiated supplemental agreement evidencing renewal or extension of the contract is executed, the contracting officer shall, if funds are not then available, insure that—

(1) The contractor understands that any work performed prior to his receiving notice of availability of funds is performed at the contractor's risk, and

(2) The supplemental agreement contains the clause set forth in § 1.318 of this title.

(d) Clause.

OPTION TO RENEW CONTRACT FOR ADDITIONAL PERIOD (MARCH 1969)

(a) At the option of the Government, the Contractor shall negotiate in good faith with the Government for the continuation of services of the general type hereunder using as a basis for the negotiation the terms and conditions of this contract: *Provided*, That, the Contracting Officer notifies the Contractor in writing of the intention to negotiate for such continuation at least sixty (60) calendar days prior to the 30th day of June of the current fiscal year, except that no services may be continued beyond June 30, 19__. If the performance of services is to be continued through the exercise of this option, the Contracting Officer shall notify the Contractor of the date on which such performance is to begin.

(b) The Contractor may refuse to continue the services of the general type hereunder beyond the 30th day of June of the current fiscal year: *Provided*, That, the Contractor notifies the Contracting Officer in writing of the intention not to negotiate for such continuation at least one hundred and twenty (120) calendar days prior to the 30th day of June of the current fiscal year.

(c) Notwithstanding the foregoing, this contract may be extended, at the option of the Government, under the terms and conditions hereof for 1 month for final contract administration and simultaneous cooperation by the Contractor with any other Contractor who may be awarded a contract for a period commencing with the extension: *Provided*, That, the Contracting Officer notifies the Contractor in writing of the exercise of this option at least thirty (30) calendar days prior to the 30th day of June of the current fiscal year.

6. New Subpart U is added; § 591.5005 is redesignated as § 591.5006, and a new § 591.5005 is added, as follows:

Subpart U—Advance Procurement Planning

Sec.

AUTHORITY: The provisions of this Subpart U issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

§ 591.2100 Advance procurement (AP) planning.

§ 591.2100–1 General.

(a) Each project manager, or where items are not project-managed, each head of procuring activity shall be responsible for the accomplishment of advance procurement (AP) planning within his procuring activity with objectives to—

(1) Achieve competition in procurement whenever feasible; and

(2) Develop solicitations which are expressed in concise, intelligible, and consistent language, and which permit sufficient time for thorough evaluation of offers.

(b) Requirements personnel shall be directed to accommodate their efforts to the realities of procurement policies and procedures, e.g.—

(1) Drawings shall be consistent with specifications;

(2) Specifications and standards incorporated by reference shall be kept to a minimum and references to specifications and standards having no significance shall be omitted;

(3) Special provisions and specifications shall not include subject matter of clauses which cover the same ground as or conflict with prescribed ASPR or APP clauses;

(4) Restrictive specifications shall not be used; and

(5) Requirements described in the solicitation shall be complete and unambiguous.

§ 591.2100–2 Applicability.

(a) Advance procurement planning to insure timely and competitive procurement shall be accomplished for all procurements. The scope of such planning shall vary with the complexity and dollar value of the procurement contemplated.

(b) AR 705–5 requires the submission of AP plans for all projects for advanced, engineering, or operational system development that exceed $300,000 for any fiscal year.

(c) AP plans are required for advanced development projects or tasks only if the efforts can reasonably be expected to lead to engineering development as a result of the advanced development efforts, or to a hardware quantity buy. Separate AP plans are required for advanced development projects where more than one approach has been or is to be undertaken and separate contracts have been or will be executed.

(d) AP plans are not required if the advance development effort is primarily a continuation of applied research or exploratory development in which the effort being expended is to prove feasibility and practicability of proposed solutions and determining their parameters or interfaces of technical concepts.

§ 591.2100–5 Approval.

(a) AP plans or updates thereof shall be submitted to the Office, Chief of Research and Development, Department of the Army, Washington, D.C. 20310, for review and joint Secretarial (R&D) and (I&L) approval when the plan includes advanced, engineering, or operational system development.

(b) All other AP plans or updates thereof shall be submitted through the Deputy Chief of Staff for Logistics, Department of the Army, to the addressee in § 591.150(b)(7) for approval, whether negotiated or formally advertised, if for—

(1) PEMA hardware procurements in excess of $5 million, and

(2) Services procurements in amounts of $10 million or more.

(c) In addition to the data required by the ASPR, each AP plan shall include—

(1) The estimated program unit cost for each end item in the initial procurement year and in each of the planned succeeding procurement years;

(2) The estimated contractual unit price broken down to show each item and subitem to be acquired under the contract;

(3) The program unit cost broken down;

(4) If procurement is to be sole source—

(i) A discussion of component breakout regardless of first time procurement or not; and

(ii) An impact statement should the plan be disapproved; and

(5) If procurement is not for a usable end item, explanation of how the other components will be acquired regardless of dollar value of contracts.

(d) The general requirement to submit AP plans above the stated thresholds in paragraph (b) of this section is specifically waived for ammunition, except that AP plans shall be submitted for the following—

(1) Cartridge, 105mm, HE, M1;
(2) Projectile, 155mm, HE, M107;
(3) Projectile, 175mm, HE, M437E2;
(4) Cartridge, 81mm, HE, M374 (MPTS);
(5) Projectile, 8'', HE, M106;
(6) Fuze, MTSQ, M564;
(7) Fuze, PD, M557; and
(8) Fuze, Proximity, M514A1.

(e) Individual procurements, either above or below stated thresholds, may be deleted or included at the discretion of the Assistant Secretary of the Army (Installations and Logistics).

§ 591.5005 Withholding of funds.

Pending determination of the Director of Procurement Policy and Review as to referral of a case to the Board and pending a decision of the Board if a hearing is recommended, the contracting officer administering the contract or contracts involved shall withhold from payments otherwise due the contractor a sum equivalent to 10 times the estimated costs of the gratuities alleged to have been offered or given by the contractor, his agents, or other representatives, in violation of the Gratuities clause.

§ 591.5006 Posthearing actions. [Redesignated]

7. In § 591.5102(c), delegations in subparagraphs (1) and (7) are revised; the delegation in subparagraph (9) is revoked; and subparagraph (15), with new delegation, is added; and a new § 591.5103 is added, as follows:

§ 591.5102 Delegations of authority.

* * * * *

(c) * * *

(1) SAOAS–68–1—Delegation of Authority to Approve the Publication of Advertisements, Notices, or Proposals.

* * * * *

(7) SAOSA–69–9—Delegation of Authority to Sell Government Property.

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(9) [Revoked]

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(15) SAOAS–68–20—Delegation of Authority to Certify as Just and Reasonable Indemnification Claims Not Exceeding $50,000.

Ref No: SAOAS–68–1 June 20, 1968.

DELEGATION OF AUTHORITY TO APPROVE THE PUBLICATION OF ADVERTISEMENTS, NOTICES OR PROPOSALS

1. Pursuant to Title 5, United States Code, section 302(b)(2), and General Orders No. 1, Headquarters, Department of the Army, January 1, 1968, I hereby delegate, without authority to redelegate further, the authority to approve the publication of advertisements, notices or proposals in newspapers, subject to the limitations in 44 United States Code 321, 322, and 324, to:

Heads of Procuring Activities, their Deputies, and Principal Assistants Responsible for Procurement.
The Adjutant General.
Director of Civilian Personnel, U.S. Army.
Director of Personnel and Training, U.S. Army Materiel Command.
Chief, U.S. Army Audit Agency.
Chief, Personnel Administration, Office of the Chief of Engineers.
Commanding General, U.S. Army Recruiting Command.
Division Engineers, Corps of Engineers.
Commander, U.S. Army Sentinel System Evaluation Agency.

2. Procedures prescribed in paragraph 1–1002.6 of the Armed Services Procurement Regulation shall be used in actions taken pursuant to this delegation of authority.

3. The foregoing delegation of authority becomes effective on July 1, 1968, and, as of that date, Delegation of Authority SAOAS–67–1, December 8, 1967, subject: Delegation of Authority to Approve the Publication of Advertisements, Notices or Proposals, is superseded without prejudice to any action taken pursuant thereto.

ROBERT A. BROOKS,
Assistant Secretary of the Army, Installations and Logistics.

Ref No: SAOSA–69–9 January 6, 1969.

DELEGATION OF AUTHORITY TO SELL GOVERNMENT PROPERTY

1. Under the Act of August 28, 1958 (Public Law 85–804, 72 Stat. 972; 50 U.S.C. 1431–1435); Executive Order No. 10789, November 14, 1958, 23 F.R. 8897; and section XVII of the Armed Services Procurement Regulation, I hereby delegate to each Head of Procuring Activity, without authority to redelegate further, the authority to approve contracts not in excess of $50,000 for:

a. The sale of uniforms, safety clothing, safety equipment, and other such special safety and protective articles to contractors under Defense contracts, to employees of such contractors, and to Government employees, at prices determined in accordance with applicable pricing regulations;

b. The sale of Government-owned unserviceable ammunition components, or scrap generated in the production of ammunition components, to selected metal processors at current market prices and on condition that quantities of raw materials equivalent to that processed from the unserviceable components be made available by them to Army contractors participating in approved ammunition programs.

2. A contract, or amendment or modification thereof, shall be entered into under paragraph 1a hereof only upon a written finding that the sale is made in connection with and will facilitate or expedite performance of a specific contract or work order for Defense procurement.

3. A contract, or amendment or modification thereof, shall be entered into under this delegation only if:

a. The approving authority:

(1) Finds that the action will facilitate the national defense;

(2) Deems that other legal authority in the Department to accomplish the sale is lacking or inadequate; and

(3) Deems that the use of the authority herein delegated is necessary and appropriate under all the circumstances; and

b. The requirements of part 3, section XVII, Armed Services Procurement Regulation, are otherwise met.

4. This authority does not apply to the sale of property subject to priorities or allocation under the Defense Production Act of 1950, as amended (64 Stat. 798; 50 U.S.C. App. 2062), except where such sale is authorized under that Act or applicable regulations or orders thereunder.

5. The foregoing delegation of authority becomes effective on January 15, 1969, and, as of that date, Delegation of Authority, Ref No: SAOAS–67–9, October 28, 1966, subject: Delegation of Authority to Sell Government Property, is superseded without prejudice to any action taken pursuant thereto.

ROBERT A. BROOKS,
Assistant Secretary of the Army, Installations and Logistics.

Ref No: SAOAS-68-20 September 11, 1968.

DELEGATION OF AUTHORITY TO CERTIFY AS JUST AND REASONABLE INDEMNIFICATION CLAIMS NOT EXCEEDING $50,000

Pursuant to the authority contained in the Act of August 28, 1958 (Public Law 85-804, 50 U.S.C. 1431) and Executive Order No. 10789, dated November 14, 1958, and under section XVII of the Armed Services Procurement Regulation, I hereby delegate to the Commander in Chief, U.S. Army, Pacific, without authority to redelegate further, the authority to certify as just and reasonable payments of amounts not to exceed $50,000 for claims received from contractors in the Republic of Vietnam which have been submitted pursuant to the indemnification clause of their contracts.

ROBERT A. BROOKS,
Assistant Secretary of the Army, Installations and Logistics.

§ 591.5103 Redelegations of authority.

(a) Redelegations of authority by delegees, when permitted by the pertinent delegation of authority reproduced herein or elsewhere referenced in ASPR or APP, shall be issued in the same format as the basic delegation of authority and shall be signed personally by the delegee.

(b) One copy of each redelegation of authority shall be forwarded on date of issuance by the delegee to the addressee in § 591.150(b)(6).

PART 592—PROCUREMENT BY FORMAL ADVERTISING

8. Part 592 is revised to read as follows:

Subpart A—Use of Formal Advertising

Sec.
592.103 General requirements for formal advertising.
592.104 Types of contracts.
592.104-3 Fixed-price contracts with escalation.

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—Opening of Bids and Award of Contract

592.406 Mistakes in bids.
592.406-3 Other mistakes.
592.406-4 Disclosure of mistakes after award.
592.407 Award.
592.407-9 Protests against award.

AUTHORITY: The provisions of this Part 592 issued under secs. 2301-2314, 3012, 70A Stat. 127-133, 157; 10 U.S.C. 2301-2314, 3012.

Subpart A—Use of Formal Advertising

§ 592.103 General requirements for formal advertising.

Approvals of contract awards required by Department of the Army are contained in §§ 591.403-54, 591.403-55, and 591.450 of this chapter.

§ 592.104 Types of contracts.

§ 592.104-3 Fixed-price contracts with escalation.

If neither of the escalation clauses in § 7.106-1 or § 7.106-2 of this title are applicable and an escalation clause is considered necessary, the contracting officer shall forward through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter for approval the clause he proposes to use. The request for approval shall explain the requirement for use of an escalation clause and shall state reasons why neither of the clauses in ASPR are appropriate.

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—Opening of Bids and Award of Contract

§ 592.406 Mistakes in bids.

§ 592.406-3 Other mistakes.

(a) Authority is delegated to chiefs of purchasing offices having legal counsel available to make determinations described in § 2.406-3(a)(1) of this title. When a purchasing office does not have legal counsel available, such determinations shall be made at the cognizant head of procuring activity level.

(b) Authority is delegated to the individuals named in § 2.406-3(b)(1) of this title to make determinations described in § 2.406-3(a)(2), (3), and (4) of this title.

(c) Doubtful cases submitted to the Comptroller General for decision prior to award shall be forwarded by purchasing offices through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter. In addition to the data prescribed in § 2.406-3(e)(3) of this title, the case forwarded shall include a statement that an award has not been made. Recommendations of each level of authority through which the case is forwarded shall be added.

(d) Heads of procuring activities shall monitor and maintain records of administrative determinations in § 2.406-3(a)(1) of this title made by chiefs of purchasing offices in their procuring activity or at head of procuring activity level. For this purpose, chiefs of purchasing offices shall forward to the cognizant head of procuring activity not later than the 10th day of each month a copy of each administrative determination made during the preceding month together with the data prescribed in § 2.406-3(e)(3) of this title.

(e) Delegees named in § 2.406-3(b)(1) of this title shall maintain records of administrative determinations described in § 2.406-3(a)(2), (3), and (4) of this title made by them.

§ 592.406-4 Disclosure of mistakes after award.

(a) Heads of procuring activities shall maintain records of administrative determinations, including data prescribed in § 2.406-4(d)(2) of this title.

(b) In processing a mistake disclosed after award which would normally be handled pursuant to part 17 of this title but where—

(1) The contractor has requested in writing that a decision be made by the Comptroller General; or

(2) Cognizance of the case has been taken by the Comptroller General;

the contracting officer shall forward the case through the cognizant Head of Procuring Activity to the addressee in § 591.150(b)(6) of this chapter (also see § 17.205-2(a) of this title).

§ 592.407 Award.

§ 592.407-9 Protests against award.

(a) When a protest is received prior to award of a contract, the contracting officer shall attempt to resolve the issue, except when—

(1) He considers it desirable to submit the protest to a higher authority for resolution;

(2) He considers it desirable to obtain the opinion of the Comptroller General before award; or

(3) The person making the protest indicates that he intends to carry the protest to a higher authority.

(b) Protest cases submitted to higher authority for resolution shall be fully documented and shall include—

(1) A signed statement from the person making the protest setting forth the facts upon which his protest is based, together with any supporting evidence;

(2) A signed statement, when relevant, from other persons or bidders affected by or involved in the protest setting forth the facts with respect to their position in the matter, together with any supporting evidence;

(3) A copy of the bid submitted by the protesting bidder and a copy of the bid of the bidder who is being considered for award, if relevant to the protest;

(4) A copy of the solicitation including pertinent specifications, if relevant to the protest;

(5) A copy of the abstract of bids;

(6) Any other documents relevant to the protest; and

(7) A statement signed by the contracting officer setting forth—

(i) His findings on each allegation made in the protest;

(ii) Actions taken to resolve the protest and results;

(iii) Any additional information and evidence relevant to determining the validity of the protest; and

(iv) His recommendations in the matter.

(c) Protest cases emanating in purchasing offices under the jurisdiction of Headquarters, U.S. Army Materiel Command, which are submitted for resolution to a level of authority higher than the cognizant head of procuring activity, shall be forwarded to the addressee in § 591.150(b)(12) of this chapter. Each intervening level of authority through which the protest is forwarded shall add its recommendations in the matter. Headquarters, U.S. Army Materiel Command, shall forward protests directly to the Comptroller General.

(d) Protest cases emanating in purchasing offices under the jurisdiction of the Chief of Engineers shall be forwarded to the Chief of Engineers, Attention: ENGGC-M, Department of the Army, Washington, D.C. 20315. The Chief of Engineers shall in turn forward protests directly to the Comptroller General.

(e) Headquarters, U.S. Army Materiel Command, and the Office, Chief of Engineers shall forward a copy of each transmittal letter, the contracting officer's administrative report, and the legal analysis and opinion of the issues (when appropriate) relative to each protest forwarded directly to the Comptroller General to the addressee in § 591.150(b)(7).

(f) Protest cases emanating in purchasing offices other than those enumerated in paragraphs (c) and (d) of this section, which are submitted for resolution to a level of authority higher than the cognizant head of procuring activity, shall be forwarded through the head of procuring activity to the addressee in § 591.150(b)(7) of this chapter. Each intervening level of authority through which the protest is forwarded shall add its recommendations in the matter.

(g) When a contracting officer makes an award pursuant to § 2.407-9(b)(3) of this title, he shall furnish copies of his decision to award to—

(1) The cognizant head of procuring activity; and

(2) The authority to which the person making the protest had indicated that he intended to carry the protest, if applicable.

(h) When the contracting officer forwards a protest received prior to award to a higher authority for resolution, he shall withhold the award pending instructions from the authority to which the protest was forwarded for resolution.

(i) When a protest is filed directly with the Comptroller General prior to award, the cognizant head of procuring activity shall be so notified by the Director of Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics). The head of procuring activity shall in turn notify the contracting officer concerned and the contracting officer shall promptly forward the information prescribed in paragraph (b) of this section together with any other documentation specifically requested by the Comptroller General. Cases shall be forwarded as prescribed in paragraphs (c) and (d) of this section. Award of contract shall be withheld pending instructions from the Comptroller General except as provided in § 2.407-9(b)(2) of this title.

(j) When a protest is received after award of a contract, the following actions shall be taken—

(1) The contracting officer shall immediately notify the cognizant head of procuring activity of the nature of the protest;

(2) Where it reasonably appears that the award of the contract may be held to be invalid and a delay in receiving supplies or services covered by the contract is not prejudicial to the Government's interest, the contracting officer shall, subject to such instructions as the head of procuring activity deems appropriate, seek a mutual agreement with the contractor to "stop work" on a no cost basis;

(3) If the contractor refuses to enter into such a mutual "stop work" agreement, the head of procuring activity may direct the contracting officer in writing to issue a "stop work" order, unless the head of procuring activity determines that receipt of the supplies or services is so urgent that a "stop work" order would be prejudicial to the Government's interest;

(4) When a head of procuring activity subordinate to Headquarters, U.S. Army Materiel Command, considers that guidance from higher authority is necessary, the matter of withholding contractor performance shall be submitted by the most expeditious means to the addressee in § 591.150(b)(12) of this chapter;

(5) When a head of procuring activity not subordinate to Headquarters, U.S. Army Materiel Command, considers guidance necessary from higher authority, the matter shall be submitted to the addressee in § 591.150(b)(7) of this chapter;

(6) The contracting officer shall take no action pending receipt of advice from the appropriate level of higher authority.

PART 593—PROCUREMENT BY NEGOTIATION

9. Part 593 is revised to read as follows:

Subpart A—Use of Negotiation

Subpart B—Circumstances Permitting Negotiation

Subpart C—Determinations and Findings

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Subpart E—Solicitations of Proposals and Quotations

Subpart F—Small Purchase and Other Simplified Purchase Procedures

Subpart G—Negotiated Overhead Rates

Subpart H—Price Negotiation Policies and Techniques

AUTHORITY: The provisions of this Part 593 issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

Subpart A—Use of Negotiation

§ 593.102 General requirements for negotiation.

Approvals of contract awards required by Department of the Army are contained in §§ 591.403–54, 591.403–55, and 591.450 of this chapter.

Subpart B—Circumstances Permitting Negotiation

§ 593.202 Public exigency.

§ 593.202–2 Application.

See AR 725–50 as it relates to the Uniform Materiel Movement and Issue Priority System (UMMIPS).

§ 593.204 Personal or professional services.

§ 593.204–2 Application.

Department of the Army procedures are set forth in Part 612 of this chapter.

§ 593.207 Medicines or medical supplies.

§ 593.207–2 Application.

Advance publicity is considered suitable when written solicitations have been furnished concerns engaged in the manufacture or sale of the supplies involved, including qualified suppliers known or reasonably believed to be interested in selling such supplies to the Government.

§ 593.207–3 Limitation.

Procurement shall not be made under this authority unless consistent with Subpart L, Part 5 of this title and AR 715–30.

§ 593.208 Supplies purchased for authorized resale.

§ 593.208–2 Application.

Advance publicity is considered suitable when written solicitations have been furnished to concerns engaged in the manufacture or sale of the supplies involved, including qualified suppliers known or reasonably believed to be interested in selling such supplies to the Government.

§ 593.208–3 Limitation.

Procurement shall not be made under this authority unless consistent with Subpart L, Part 5 of this title.

§ 593.209 Perishable or nonperishable subsistence supplies.

§ 593.209–3 Limitation.

Procurement shall not be made under this authority unless consistent with Subpart L, Part 5 of this title.

§ 593.210 Supplies or services for which it is impracticable to secure competition by formal advertising.

§ 593.210–2 Application.

Although 10 U.S.C. 2304(a)(10) refers to the impracticability of obtaining competition, the authority to negotiate under this exception is appropriate, subject to limitations stated in § 3.210–2 of this title, for supplies or services for which it is impracticable to obtain competition by formal advertising, including two-step formal advertising. Accordingly, competition shall be obtained when negotiating under this authority when more than one source is available.

§ 593.210–3 Limitation.

The written determination to justify negotiation under this authority shall state that the procurement is "for supplies (or services, or both) for which it is impracticable to obtain competition by formal advertising," and shall set forth the particular reasons why competition by formal advertising is not practicable.

§ 593.211 Experimental, developmental, or research work.

§ 593.211–3 Limitation.

To determine whether the written determination and findings must be made at Secretarial level or may be made below that level, see §§ 3.302 and 3.303 of this title and §§ 593.302 and 593.303.

§ 593.212 Classified purchases.

§ 593.212–2 Application.

See §§ 7.104–12 and 16.811 of this title and Industrial Security Regulation (DoD 5220.22–R) for guidance applicable to negotiation under this authority.

§ 593.213 Technical equipment requiring standardization and interchangeability of parts.

§ 593.213–2 Application.

(a) The term "standardization" as used herein includes the concept of uniformity to a degree which will accomplish maximum interchangeability of parts.

(b) Responsibility within the Department of the Army for action concerning candidate items for standardization and for monitoring the standardization program under 10 U.S.C. 2304(a)(13) is vested in the Commanding General, U.S. Army Materiel Command, who has assigned the responsibility to the Director of Procurement and Production of that command. The Director of Procurement and Production, U.S. Army Materiel Command, assigns responsibility for initiating standardization action, according to groups or categories of candidate items, to a head of procuring activity who is then responsible within the assigned category for—

(1) Initiating requests for standardization approval;

(2) Initiating determinations and findings for authority to negotiate after, or simultaneous with, standardization approval;

(3) The biennial review required by § 3.213–2(e) of this title; and

(4) Reporting the results of the biennial review with data supporting any determination made that the standardization should be continued, revised, or canceled, as the case may be.

(c) The head of procuring activity assigned a category of candidate items for standardization may select any item in the category which he believes will meet the criteria in § 3.213 of this title and in §§ 593.213—593.213–5 and may initiate a request for approval of standardization in accordance with § 593.306–54. If the facts appear to justify standardization, the head of procuring activity shall accumulate data concerning the makes and models of the item in the Army supply system and due in from procurement. Stocks on hand and due in from procurement of any make or model proposed for standardization shall constitute a significant portion, i.e. approximately 15 percent or more, of the assets of the item in the Army supply system. If the Army provides maintenance and repair parts in support of the Air Force, the combined assets of the two Departments may be considered; however, assets for the Military Assistance Program and for use exclusively at continental U.S. installations or activities, such as for repairs and utilities use, shall not be considered in selection of makes and models for initial standardization action.

(d) Requirements for the Military Assistance Program may be included in a purchase under this authority when—

(1) The Army's responsibility with respect to the Military Assistance Program equipment extends to replacement of parts;

(2) The Military Assistance Program requirements alone do not comprise a sufficient quantity for economical procurement; or

(3) Other circumstances set forth in the data supporting the determination to negotiate demonstrate the impracticability of advertising for the requirement.

(e) When redesign or redesignation of a standardized model will not affect interchangeability of parts of the new and old models, the standardization file of the cognizant head of procuring activity and the Director of Procurement and Production, U.S. Army Materiel Command, shall reflect a revision to the original standardization approval, supported by a determination of the head of procuring activity that cancellation of standardization is not warranted. When, for any reason, the head of procuring activity or the Director of Procurement and Production conclude that an approved standardization should be canceled, written notification shall be given promptly to the addressee in § 591.150(b)(7) of this chapter and to

the Assistant Secretary of Defense (Installations and Logistics). Consideration shall be given to cancellation when, after standardization, the quantity in the Army supply system of one or more of the selected suppliers falls below 15 percent, but cancellation is not required unless it reasonably appears that in future negotiated procurements such supplier(s) will not be able to offer effective competition. Nevertheless, when the quantity of one or more of the selected suppliers falls below 15 percent, standardization shall not be continued beyond one procurement except for the most compelling reasons.

§ 593.213–3 Limitation.

(a) To effect a procurement under this authority there shall have been executed at Secretarial level—

(1) A determination to standardize; and

(2) A determination and findings to support the negotiation of each proposed individual procurement or class of procurements.

(b) Approval of standardization does not constitute authority to negotiate a contract for procurement of the equipment or its parts.

(c) In negotiating procurements under this authority, effective competition shall be established between the selected suppliers, where more than one has been selected, and award shall be made to the supplier submitting the lowest responsive offer. Any contract for a standardized item shall contain a clause that the prices charged do not exceed the prices charged the contractor's most favored customer for similar quantities.

(d) The authority of a head of procuring activity to continue standardization following the required biennial review does not extend to continuation of standardization beyond the period of standardization approved by the Secretary.

(e) In transmitting Army initiated Military Interdepartmental Purchase Requests (MIPR's) requiring procurement of specific technical commercial type items of equipment for reasons of standardization, the initiating activity shall attach a copy of the approved determination of the Secretary to standardize.

§ 593.213–5 Records and reports.

The Director of Procurement and Production, U.S. Army Materiel Command, is responsible for maintaining and furnishing records pursuant to § 3.215–5 of this title.

§ 593.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.

§ 593.214–2 Application.

When avoidance of duplication of private investment is relied upon as a factor justifying negotiation under this authority, the supporting data submitted with the proposed determination and findings for Secretarial action shall contain convincing factual information that such duplication would be likely to result in additional cost to the Government.

§ 593.215 Negotiation after advertising.

§ 593.215–2 Limitation.

Subject to the limitations in § 3.215–2 of this Title, this authority may also be used for the procurement of an amount less than the entire portion of the procurement originally advertised.

§ 593.216 Purchases in the interest of national defense or industrial mobilization.

§ 593.216–2 Application.

(a) Section 3.216–2 of this Title must be read with emphasis upon the necessity for negotiation either to have a particular prospective contractor or a particular plant or facility available, and such necessity must arise from genuine considerations of national defense or industrial mobilization in event of a national emergency. The supporting data and the determinations and findings shall—

(1) Name the prospective contractor(s) with whom negotiation will be undertaken; and

(2) Clearly demonstrate that industrial mobilization or national defense considerations in event of a national emergency form the basis for the procurement with the particular contractor(s) named.

(b) Even though industrial mobilization, including production in completely separate plants, is a necessary consideration in placing a procurement, if competition is feasible the use of formal advertising including two-step formal advertising shall be considered, especially for the initial contract.

(c) Examples of procurements which might properly be negotiated under 10 U.S.C. 2304(a)(16) are—

(1) A contract for maintaining a facility in standby or layaway so as to have it available for production in event of a national emergency;

(2) A contract for the primary purpose of keeping existing lines and personnel of a mobilization base supplier active and current for national defense or industrial mobilization reasons; and

(3) A contract to train a particular contractor as a second or additional mobilization base producer.

(d) Procedures pertaining to approval of industrial mobilization projects are set forth in AR 37–40. However, the fact that a project falls under the Army Production Base Support Program does not necessarily justify use of negotiation under 10 U.S.C. 2304(a)(16). If the work to be performed under production engineering is virtually all design, development and test (i.e. design and test of a new, untried pilot line and of new production engineering solutions, development of production type specifications, design of new special tooling or of new special test equipment), the negotiation exception under § 3.211 of this title might be appropriate, notwithstanding that PEMA funds are to be used. For example, § 3.211 might be appropriate when the contract effort is—

(1) To modernize an existing Government-owned facility by the application of new techniques to the equipment, processes, and specifications; or

(2) To develop a procurement package suitable for competitive procurement from "raw" technical data and test results.

(e) If authority to negotiate under § 3.211 of this title is sought in a case where PEMA funds are to be used, the request for Secretarial approval of the determination and findings shall be forwarded to the addressee in § 591.150(b)(1) of this chapter.

§ 593.216–3 Limitation.

The authority under 10 U.S.C. 2304(a)(16) shall be used in preference to that under 10 U.S.C.(a)(12) but shall not be used when any other negotiation authority requiring Secretarial approval is appropriate.

§ 593.217 Otherwise authorized by law.

§ 593.217–2 Application.

(a) Any contract negotiated under this authority shall cite, in addition to 10 U.S.C. 2304(a)(17), the applicable statute or United States Code reference.

(b) The following United States Code references are illustrative of statutes which may be cited in appropriate cases in conjunction with 10 U.S.C. 2304(a)(17)—

(1) 5 U.S.C. 4105, training of civilian employees;

(2) 10 U.S.C. 1079, hospital and physicians contracts relating to dependent medical care;

(3) 15 U.S.C. 637(a), small business, section 8, Small Business Act;

(4) 15 U.S.C. 644, small business, section 15, Small Business Act;

(5) 18 U.S.C. 4124, prison-made supplies;

(6) 41 U.S.C. 48, blind-made supplies; and

(7) 49 U.S.C. 65, transportation services procured from commercial carriers lawfully operating in the territory in which such services are to be performed.

§ 593.217–50 Limitation.

Except as authorized in § 593.217–2, this authority shall not be used to negotiate a contract without the prior written approval of the cognizant head of procuring activity or higher authority. The contract file shall contain or cross-reference the required approval.

Subpart C—Determinations and Findings

§ 593.301 Nature of determinations and findings.

(a) Normally a determination shall not be stated in the alternative (Example 1); however, cases exist where such a statement may be proper (Example 2); and, when the facts adequately support alternatives, they may properly be stated conjunctively (Example 3). All examples are based upon a portion of § 3.214–3 of this title.

(1) *Example 1.* It is normally improper for the determination to state "that procurement by formal advertising either would be likely to result in additional cost to the Government by reason of duplication of investment, or would result in duplication of necessary preparation which would unduly delay the procurement." Instead, the alternative

most responsive to the facts set forth in the findings should be used alone.

(2) *Example 2.* A statement in the alternative may be used in an appropriate class determination, e.g. where some of the procurement actions proposed would duplicate investment and others would unduly delay the procurement.

(3) *Example 3.* When both alternatives are supported by fact, the determination may properly state "that the procurement by formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment and would result in duplication of necessary preparation which would unduly delay the procurement."

(b) When class determinations and findings are requested, the identity of the property or services to be procured shall be clearly presented to the approving authority so as to apprise him of the procurement actions to which his approval would apply. Such identification is required to avoid an unlawful delegation of authority under 10 U.S.C. 2311. At the time an individual negotiated procurement is initiated under authority of a class determination and findings, the contracting officer shall insure that formal advertising is not feasible or practicable and shall prepare a statement of use for each procurement exceeding $10,000 showing—

(1) The identity of the class determination and findings;

(2) Purchasing office;

(3) Item(s) and quantity(ies);

(4) Contractor;

(5) Contract type;

(6) Contract number, date, and amount; and

(7) Whether or not competitive.

A copy of the statement of use shall be forwarded to the cognizant head of procuring activity. A continuing review of the use of class determinations and findings shall be made at head of procuring activity level.

(c) Premature disclosure of information contained in a determination and findings and its supporting data could provide an unfair advantage to one prospective contractor over another or create an impression that fair treatment was not being accorded all concerned. Accordingly, determinations and findings and supporting data not classified for other reasons shall be marked "For Official Use Only," unless the contracting officer determines in writing that there is no likely risk of prejudice to prospective contractors. Marking and removal of marking "For Official Use Only" shall be in accordance with AR 345–15.

§ 593.302 Determinations and findings by the Secretary of a Department.

In addition to the determination and findings set forth in § 3.302 of this title, determinations and findings may be required at Secretarial level in relation to—

(a) Section 3.404–7 of this title with respect to use of a contract providing for retroactive price redetermination after completion;

(b) 10 U.S.C. 2353 relating to the acquisition or construction by, or the furnishing to, a contractor of research, developmental, or test facilities and equipment and specialized housing therefor under a research or development contract (see § 593.306–52);

(c) 10 U.S.C. 2354 relating to use of an indemnification clause in a research and development contract (see § 593.306–53);

(d) Section 3.807–3(a) of this title with respect to a waiver in exceptional cases of requirements for submission by contractors of cost or pricing data and certificates relating thereto (see § 593.306–54);

(e) Part 17 of this title (Public Law 85–804) (see §§ 17.208 and 17.303 of this title and § 593.306–53(c));

(f) Contracts for services of certain experts or consultants and for stenographic reporting services (see §§ 591.450–3, 593.306–55, 612.205, and 612.209 of this chapter. NOTE: A separate determination and findings is required to support such contracts not covered by an annual delegation. The delegation applicable to DEFSIP–B personnel is limited by 10 U.S.C. 1584 and 2356); and

(g) Architect-engineer services under 10 U.S.C. 4540 and other pertinent statutes (see §§ 591.450–5 and 593.306–56 of this chapter).

§ 593.303 Determinations and findings below the Secretarial level.

(a) Heads of procuring activities, their deputies, and principal assistants responsible for procurement are delegated, without power of redelegation, the authority to make class determinations and findings with respect to negotiation pursuant to §§ 3.202, 3.207, 3.208, and 3.210 of this title.

(b) Determinations of estimated cost (§ 3.405–6(c)(2) of this title) for the purpose of measuring the maximum fixed fee (see 10 U.S.C. 2306(d)) or maximum total fee under § 3.405–4(c) of this title may be made by the cognizant head of procuring activity or his authorized designee. Each such determination of estimated cost for fee measurement purposes shall be made a matter of record at the time of award of any cost-reimbursement type contract which contains provisions both for cost incentives and for excluding certain estimated costs from the target cost, or which contains a firm fixed-price or cost-sharing element.

§ 593.305 Formats for determinations and findings.

A determination and findings shall be concise and normally shall not exceed 1½ pages. See § 593.306 and appendix J, ASPR, for—

(a) Format for letter of transmittal forwarding a determination and findings for Secretarial action;

(b) Description of supporting data required to accompany a determination and findings submitted for Secretarial approval;

(c) Cover sheet format of the justification for Secretarial authorization for negotiation; and

(d) Formats for determinations and findings.

§ 593.306 Procedure with respect to determinations and findings.

(a) The basic procedure for obtaining approval of a determination and findings requiring Secretarial action consists of—

(1) Preparation and submission through procurement channels to the appropriate Secretarial office of the document to be signed;

(2) A Justification for Secretarial authorization for negotiation containing required supporting data and an AP plan when appropriate; and

(3) A transmittal letter.

(b) The submission shall be made in an original and five copies in sufficient time to allow a minimum of fifteen (15) working days within Headquarters, Department of the Army.

§ 593.306–50 Authority to negotiate.

Each request for Secretarial determination under 10 U.S.C. 2304(a) (11) through (16) shall consist of—

(a) A letter of transmittal in the format in § 593.306–51;

(b) The justification for negotiation recommending approval of the determination and findings as required by appendix J, ASPR;

(c) The supporting data to the justification in the format prescribed in Appendix J, ASPR;

(d) The determination and findings in the appropriate format prescribed in Appendix J, ASPR;

(e) An AP plan, if applicable, in the format prescribed.

§ 593.306–51 Letter of transmittal.

The following format is typical of a letter of transmittal for requesting Secretarial approval of a determination and findings—

DEPARTMENT OF THE ARMY

(PROCURING OR REQUIRING ACTIVITY)

SUBJECT: Request for Approval of Determination and Findings.

THRU: [1]

TO:[2] Assistant Secretary of the Army, Washington, D.C. 20310.

Inclosed is a Justification for Secretarial Authorization to Negotiate recommending approval of a Determination and Findings to perform the work by contract under authority in 10 U.S.C. 2304(a)( )[3] in the estimated amount of $_____.

Inclosure

as

(Signature)

Footnotes:

[1] Here show any intermediate headquarters in procurement channels through which the request is forwarded. In addition, if RDTE funded, show "Chief, Research and Development;" if funded otherwise, show "Director of Materiel Acquisition."

[2] If 10 U.S.C. 2304(a)(11) is applicable, show "(Research and Development)" except as provided in 3–216.2; show "(Installations and Logistics)" when required in 3–216.2 and in other cases where negotiation exceptions other than 10 U.S.C. 2304(a)(11) are applicable.

[3] Enter the appropriate subparagraph for negotiation.

§ 593.306–52 Specialized research and development facilities.

Each request for a Secretarial determination and findings under 10 U.S.C. 2353 shall contain—

(a) A description of the procurement to include contract type, funds used, property or services being procured, contractor, any urgency considerations, and any explanation necessary to apprise the approving authority of unique or unusual aspects. Factual information shall be given in sufficient detail to sustain a finding that the contract is for research, development, or both.

(b) A description of the research, development, or test facilities and equipment and specialized housing therefor which are to be provided the contractor at Government expense. This information shall include estimated cost; details concerning ownership of land on which they are to be affixed; severability; statement as to whether any of the proposed facilities have general utility; details which show that the property is of a special character useful primarily for research, development, or test purposes (see AR 415–25); and an explanation of why such property is necessary for the performance of the contract.

(c) An explanation of the basis upon which the facilities and equipment are to be provided to the contractor, e.g. loan, lease, other; whether they are readily removable or separable without unreasonable expense or unreasonable loss of value; and a description of the provisions which are to be included in the contract either for—

(1) Reimbursing the Government for the fair value of the property at or near the completion or termination of the contract;

(2) Options afforded the Government to acquire an interest in any underlying land; or

(3) Alternative provisions together with an explanation of why such alternatives are considered adequate to protect the interests of the Government.

§ 593.306–53 Indemnification against extra hazardous risks.

(a) Each request for a Secretarial determination and findings authorizing use of a provision indemnifying the contractor against an unusually hazardous risk shall contain—

(1) A description of the proposed or existing contract, e.g. contractor, nature of procurement, type of contract; urgency considerations, if any; and any explanation necessary to apprise the Secretary of any unique or unusual aspects of the procurement;

(2) An analysis of the elements of the contract which are considered to be unusually hazardous, with justification as to why they are so considered, including information concerning possible extent of loss, e.g. geographical areas involved, population density;

(3) Information as to any prior experience indicating demand or absence of demand for indemnification by the same contractor or other contractors in similar situations, and indicating the likelihood of loss occurring as a result of the performance of the contract and an appropriate statement concerning efficacy of preventive measures;

(4) Information concerning the availability of commercial insurance at a reasonable rate and the cost thereof; (this information must be factual, current, and complete, and must show that a bona fide effort has been made to explore feasible commercial insurance coverage); and

(5) A copy of the proposed indemnification clause, or an ASPR reference thereto (see Subpart G, Part 10 of this title).

(b) If the Secretarial determination and findings is under 10 U.S.C. 2354, the request shall also contain—

(1) Factual information showing that the contract in which the proposed clause is to be used is for research or development or both;

(2) A statement that the proposed indemnification clause complies fully with the requirements of 10 U.S.C. 2354; and

(3) The reasons why the use of such indemnification clause would be in the interest of the Government.

(c) If the Secretarial action is to be a Memorandum of Approval under Part 17 of this title (Public Law 85–804), the request shall contain factual information supporting a finding that the proposed action will facilitate the national defense.

§ 593.306–54 Waiver of requirement for submission of cost or pricing data and certificate thereof.

Each request for a Secretarial waiver shall contain an elaboration of the facts stated in the Secretarial determination and findings. Since the requirement for submission of cost or pricing data and for a certificate concerning the current status thereof is imposed by statute (10 U.S.C. 2306(f)), each request to the Secretary for approval of a waiver shall include a statement that the contractor has been advised of the statutory basis for the requirement. The request shall also contain facts which demonstrate that the case is of such an unusual, unique, or extraordinary character that the granting of the waiver would not establish a precedent which would tend to diminish the intended broad application of the statute.

§ 593.306–55 Contracts for services of experts and consultants including stenographic reporting services.

Requests for Secretarial approval of a determination and findings related to services of experts and consultants including stenographic reporting services shall comply with Part 612 of this chapter and Part 22 of this title.

§ 593.306–56 Architect-engineer services.

Architect-engineer services shall be procured only by those procuring activities to whom authority is delegated annually as described in §§ 591.450–5 and 591.5102 of this chapter. If a procuring activity to which architect-engineer contracting authority has not been delegated is required to obtain such services, arrangements for effecting the procurement shall be made with the appropriate Corps of Engineers District.

§ 593.307 Distribution of copies of determinations and findings.

(a) The original signed determination and findings shall be filed with the signed number of the contract retained in the official files of the purchasing office or cognizant procuring activity. Additional copies shall be distributed as prescribed.

(b) An authenticated copy of the determination and findings required by § 3.307 of this title to be forwarded shall accompany a copy of each relevant contract upon its submission to the General Accounting Office; except that, where it is known that a copy of a class determination and findings is on file in the General Accounting Office, it is permissible to make reference on the face of the contract copy to the applicable class determination and findings, provided the number of the prior contract to which the copy of the class determination and findings was attached is also cited.

§ 593.308 Retention of copies of determinations and findings.

Within the Department of the Army, the responsibility for the retention of copies of determinations and findings and supporting documents shall be that of the cognizant procuring activity.

Subpart D—Types of Contracts

§ 593.406 Other types of contracts.

§ 593.406–1 Time and materials contracts.

The determination that no other type of contract will suitably serve shall be made in writing by the contracting officer and shall be approved at a level higher than the contracting officer. The approved determination shall be filed in the appropriate contract file.

§ 593.406–2 Labor-hour contract.

The requirement in § 593.406–1 shall likewise apply to labor-hour contracts.

§ 593.408 Letter contract.

(a) A head of procuring activity, his deputy, or principal assistant responsible for procurement is authorized, without power of further delegation—

(1) To make the written determination required by § 3.408(c)(1) of this title;

(2) To approve letter contracts, provided preaward clearance has been obtained from the appropriate Secretary for a letter contract involving a selected item or project pursuant to § 591.403–54 of this chapter;

(3) To approve letter contracts in excess of 180 days or 40 percent of the work pursuant to § 3.408(c)(3) of this title;

(4) To approve letter contracts in excess of 50 percent of the total estimated cost of the contemplated definitive contract pursuant to § 3.408(c)(4) of this title.

(b) AR 37–22—

(1) Provides for commitment of the estimated amount of the definitive contract over and above the amount

obligated for performance of the letter contract;

(2) Precludes authorizing or creating a commitment in excess of the balances of uncommitted funds available in the appropriate allotment account; and

(3) Defines a commitment as a firm reservation of funds based upon a firm procurement directive which authorizes the creation of an obligation without recourse to the official responsible for assuring that funds are available.

(c) Accordingly, when it is necessary to enter into a letter contract and no-year funds available for obligation and commitment are less than the sum estimated to be necessary for an ultimate definitive contract which may be entered into when additional funds become available, § 3.408(c)(4) and (5) of this title require that the letter contract, including the attachment or other portion thereof describing the supplies to be delivered or the work to be performed, shall not describe, refer to, or otherwise commit the Government to a definitive contract in excess of the funds available for obligation and commitment at the time the letter contract is consummated. Nevertheless, before definitization, a letter contract may be amended to add additional work and funds at such time as funds and any other required approvals have become available.

(d) In addition to the clauses prescribed in Subpart H, Part 7 of this title, §§ 23.201–1 and 23.201–2 of this title set forth requirements for letter contracts under certain exceptional circumstances. Formats for letter contracts are in § 606.-552 of this chapter.

(e) The fee in any cost-reimbursement type letter contract and in the resulting definitive contract, and the price negotiation policies and techniques shall be consistent with §§ 3.405 and 3.800 of this title.

§ 593.408–50 Letter contracts awarded, definitized, and outstanding.

(a) Heads of procuring activities who award letter contracts shall prepare and submit quarterly reports on Letter Contracts Awarded, Definitized, and Outstanding, Reports Control Symbol DD-I&L(Q)–679, in the format in § 593.408–51. Reports shall be signed and submitted in duplicate to the addressee in § 591.150 (b)(6) of this chapter within 25 calendar days after the close of each quarter year. Negative reports are not required.

(b) Heads of procuring activities subordinate to Headquarters, U.S. Army Materiel Command or U.S. Continental Army Command shall submit their reports to the appropriate Headquarters which shall consolidate the report for submission to the addressee in § 591.150 (b)(6) of this chapter.

(c) For reporting purposes a letter contract consists of a basic letter contract with all amendments and shall be reported as a single letter contract. The total obligated dollar value of the basic letter contract combined with the obligated dollar value of all amendments shall be included. Letter contracts and amendments designated as supplemental agreements to definitive contracts shall be considered as a letter contract and shall be reported as such.

(d) The dollar amounts to be reported shall be obligated amounts prior to definitization. Definitization shall be considered complete when a definitized contract is signed by Government and contractor representatives.

(e) In addition to the quarterly reports from Headquarters, U.S. Army Materiel Command, information required by the quarterly report shall be submitted by that Command monthly in duplicate to the addressee in § 591.150 (b)(6) of this chapter not later than the 20th calendar day of each month.

§ 593.408–51 Format for report on letter contracts awarded, definitized, and outstanding.

DEPARTMENT OF THE ARMY

(Name and Address of Reporting HPA)

LETTER CONTRACTS AWARDED, DEFINITIZED AND OUTSTANDING

Period From: ..... To: .....

Status	Number	Dollar amount ($000)
1. Not definitized at beginning of period		
2. Entered into during period		
3. Definitized during period		
4. Not definitized at end of period—Total		
a. Under 6 months		
b. 6 months up to 12 months [1]		
c. 12 months or more [1]		

[1] On separate sheet, list name of contractor, contract number, amendment or modification number, date letter contract was entered into, amount of letter contract, and reason the letter contract or amendment was not definitized at the end of period.

Instructions:
1. Dollar value of amendments shall be entered on line 2, but the amendment shall not be added into the number column.
2. The sums of entries on lines 1 and 2, minus entries on line 3, shall equal the entries on line 4.
3. Entries on line 4 shall be aged on lines a through c, the age to be computed from the date of each basic letter contract through the end of the report period.

§ 593.408–52 Change orders awarded, definitized, and outstanding.

(a) Heads of procuring activities shall prepare and submit quarterly reports on Change Orders Awarded, Definitized, and Outstanding, in the format in § 593.408–53, in the same manner as prescribed in § 593.408–50 (a) and (b). Negative reports are not required.

(b) For reporting purposes an undefinitized change order consists of all unpriced contract change notices (CCN's) or other change orders that have not been definitized in the contract by supplemental agreement.

(c) Change order actions for appeals, letter contracts, or terminations shall not be reported.

(d) The report shall include all change orders of $10,000 or more. The dollar amounts to be reported shall be obligated amounts prior to definitization or the estimated value, whichever amount reflects the total estimated cost impact of the change order.

(e) A statement identifying each outstanding undefinitized change order of $1 million or more, the reason for delay in definitization, and actions taken to obtain early settlement shall be attached to each report.

§ 593.408–53 Format for report on change orders awarded, definitized, and outstanding.

DEPARTMENT OF THE ARMY

(Name and Address of Reporting HPA)

CHANGE ORDERS AWARDED, DEFINITIZED AND OUTSTANDING

Period From: ..... To: .....

Status	All actions		Actions of $1 million or more	
	Number	Dollars ($000)	Number	Dollars ($000)
	(a)	(b)	(c)	(d)
(1) Not definitized at beginning of period				
(2) Entered into during period				
(3) Definitized during period				
(4) Not definitized at end of period—Total				
a. Under 6 months				
b. 6 Months or more				

Instructions:
1. The dollar amounts shall be reported in thousands.
2. Line 4 shall equal line 1 plus line 2 minus line 3.
3. Line 4 of the previous report shall be the same as line 1 of the current report.

Subpart E—Solicitations of Proposals and Quotations

§ 593.506 Late proposals and modifications.

(a) When a late proposal is received and the contracting officer believes that it should be considered under § 3.506(c)(2) of this title, he shall forward through procurement channels to the addressee in § 591.150(b)(6) of this chapter by the most expeditious means his reasons for considering the late proposal to be of extreme importance to the Government. All facts pertinent to the solicitation which lead to his conclusion shall be stated.

(b) When time of award is of the essence, direct communication between the contracting officer and the addressee in § 591.150(b)(6) of this chapter is authorized. In such cases, the contracting officer shall furnish the cognizant head of procuring activity a copy of the communication concurrent with its release to the addressee in § 591.150(b)(6).

(c) The Secretarial determination shall be forwarded directly to the contracting officer concerned with information copies to the cognizant head of procuring activity.

§ 593.550 Debriefing of unsuccessful offerors.

§ 593.550–1 Definitions.

For the purposes of this subpart the following definitions shall apply—

(a) "Debriefing" means an explanation of the evaluation of the significant factors contained in an unsuccessful offeror's approval, pointing out major weaknesses and strong points in his proposal.

(b) "Major negotiated procurements" means—

(1) Any negotiated procurement exceeding $1 million;

(2) Any negotiated procurement which it is contemplated will lead to follow on awards in excess of $1 million; and

(3) Any other type procurement which involves extensive proposals and evaluation of special areas such as scientific approach, technical capability, and business management; e.g., project definition studies.

§ 593.550–2 Policy.

(a) Although not mandatory, debriefings after award shall be given serious consideration by each head of procuring activity and commanders of each research, engineering, and test installation or activity in selected major negotiated procurements when it is obvious that extensive effort and substantial amounts of money and time have been expended in preparation of proposals.

(b) If any unsuccessful offeror requests a debriefing, the cognizant head of procuring activity or commander shall endeavor to have a debriefing conducted. Authority to conduct debriefings may be delegated as deemed appropriate by the head of procuring activity or commander.

§ 593.550–3 Procedure.

(a) When it is determined that a particular procurement justifies a debriefing each unsuccessful offeror shall be advised that a debriefing is available and shall be informed as to the Government office concerned and its location. Notification of debriefings shall be given at the time an unsuccessful offeror is notified of award of a procurement or as soon thereafter as practicable.

(b) If an offeror requests a debriefing, arrangements shall be made to conduct the debriefing promptly.

(c) A debriefing shall be confined to a discussion of the unsuccessful offeror's proposal in relation to the Government's requirement. Care shall be taken to avoid—

(1) Comparing one offeror's proposal with another; and

(2) Disclosure of information contained in other competitive offers, such as cost breakdown, trade secrets, processes, and techniques, or any information received in confidence.

(d) Information as to specific weights or points assigned during the evaluation shall not be disclosed.

§ 593.550–4 Records.

The contract file shall be documented with a record of any debriefing action taken.

Subpart F—Small Purchase and Other Simplified Purchase Procedures

§ 593.604 Competition and price representation in small purchases.

§ 593.604–3 Price representation.

Imprest funds, blanket purchase agreements, and Standard Forms 44 shall not be used for making small purchases to evade the use of the Price Representation information prescribed in § 3.604–3 of this title. Those small purchase methods shall be used only when all criteria set forth in ASPR for their use is met.

§ 593.605 Blanket purchase agreement (BPA).

§ 593.605–3 Establishment of blanket purchase agreements.

(a) Blanket purchase agreements shall not be established—

(1) For supplies or services for which unpriced purchase orders should be used (§ 3.608–3 of this title), e.g. repair services where disassembly of the item to be repaired is required to determine the nature and extent of repairs or where exact prices of repair services are not known; or

(2) With suppliers having brand name contracts for commissary resale items available thereunder (see § 594.5102 of this chapter), except—

(i) When a brand name contract specifies a minimum shipping quantity;

(ii) The resale items are normally purchased in quantities less than the minimum shipping quantity; and

(iii) The supplier is willing to sell the items in lesser quantities at reasonable prices.

(b) Contracting officers shall normally establish firm unit prices by negotiating prices or price lists for specific periods of time for incorporation in or attachment to BPA's established with suppliers.

(c) Responsibility for the function of placing calls under BPA's rests with the contracting officer, who may—

(1) Authorize individuals assigned to his purchasing office to place calls under any BPA's established by him in any dollar amount within the limitation in § 3.605–2 of this title; and

(2) Authorize individuals in requiring activities such as commissaries, hospitals, research laboratories, or isolated off-post locations to place calls under any prepriced BPA's established by him, provided the aggregate dollar amount of any call does not exceed $250; except that individuals in commissaries may be authorized to place calls for subsistence items without monetary limitation when the BPA contains the Examination of Records clause (§ 7.104–15 of this title).

(d) Contracting officers who authorize individuals to place calls against BPA's under paragraph (c) of this section shall—

(1) Instruct the individuals in the proper use of BPA's;

(2) Furnish copies of BPA's (with price lists, if prepriced) to each individual authorized to place calls thereunder;

(3) Insure that suppliers are informed of the names of the individuals authorized to place calls;

(4) Insure that individuals equitably distribute calls among suppliers with whom BPA's have been established;

(5) Insure that individuals do not split purchase transactions to evade monetary limitations; and

(6) Obtain from individuals at the end of each billing period copies of delivery tickets or sales slips so that suppliers' invoices may be promptly processed for payment.

§ 593.605–4 Competition under blanket purchase agreements.

The use of BPA's shall not relieve the contracting officer or any individual whom he may authorize to place calls thereunder of the responsibility for judicious buying at advantageous prices and for knowledge of items purchased and the current market prices of such items.

§ 593.607 Imprest fund method.

§ 593.607–3 Conditions for use.

AR 37–103–1 prescribes policy and procedures covering disbursing operations of the Department of the Army in connection with the use of imprest funds and supplements ASPR by authorizing the use of imprest funds for expenditures not related to small purchases.

§ 593.607–4 Procedures.

(a) Ordering officers may be appointed pursuant to § 591.452 of this chapter to make purchases using imprest funds. Imprest fund cashiers shall not be appointed ordering officers and shall not be authorized to make purchases using imprest funds.

(b) COD orders shall be placed only when the price of an item has been obtained by verbal or written quotation or has been taken from the supplier's current catalog or pricelist. When COD orders are placed with suppliers by mail, they may be placed either by letter or by use of DD Forms 1155 endorsed "Payment to be made from Imprest Funds." COD orders shall not be placed based upon "ceiling" prices.

§ 593.608 Purchase orders.

§ 593.608–4 Obtaining contractor acceptance and modifying the purchase order.

When a final shipment under a purchase order is received in which there is a shortage, the purchase order may be considered completed without issuance of a modification, provided the shortage is negligible.

§ 593.608–6 Use of DD Form 1155 as a delivery order.

When more practicable and economical than processing separate delivery orders and if agreeable with the supplier, DD Forms 1155 may be used to consolidate deliveries for payment at the end of a month or lesser period. In such cases items purchased need not be itemized on

the consolidated DD Form 1155 if the supplier's invoice is itemized.

§ 593.608–8 Instructions for entries on DD Form 1155 and Standard Form 36.

(a) Accountable officers are responsible for completion of the Accepted portion of block 20 and for completion of blocks 26, 27, 31, 35, 37, 38, 39, 40, 41, and 42, subject to—

(1) When nonacceptable supplies or overages are received, disposition instructions shall be requested from the contracting officer;

(2) Errors in nomenclature or stock numbers may be corrected manually; and

(3) Receiving reports shall be completed within the time specified in AR 715–29.

(b) If inspection is made other than at destination, copies of DD Forms 1155 shall be furnished the inspection office by the contracting officer. Completed inspection reports shall be furnished the consignee unless otherwise indicated in each specific case by the contracting officer.

(c) Blocks 28, 29, 30, 32, 33, 34, and 36 shall be completed in accordance with AR 37–107.

§ 593.608–9 Order—invoice—voucher method.

(a) The signature of the contracting officer constitutes certification of fund availability under the appropriation cited on the order. The contracting officer is therefore responsible for insuring that funds are available for purchases which he makes and for entering the proper accounting classification on the order.

(b) When the bulk funding concept §§ 3.602 and 3.603–1 of this title) is used, the contracting officer shall inform the finance and accounting officer at the close of each accounting month of the amount of all purchases he has made from the bulk funding account by use of the Order—Invoice—Voucher method.

(c) The individual authorized to accept the supplies or nonpersonal services ordered shall sign in the space "Received By" and shall complete the spaces entitled "Title" and "Date" on copies 3 and 4 and such other copies of Standard Form 44 as may be required.

(d) The spaces on Standard Form 44 relating to payment shall be completed in accordance with AR 37–107. The contracting officer shall request the finance and accounting officer to enter the order number of the completed Standard Form 44 on the check for payment so that the supplier may identify the transaction for which he is receiving payment.

(e) If agreeable with the supplier, the contracting officer may hold completed Standard Forms 44 until the end of a month and prepare Standard Form 1034 as the payment voucher with the Standard Forms 44 attached as subvouchers. In such cases the signature of the contracting officer on Standard Form 1034 shall be sufficient in lieu of his signing each Standard Form 44 attached as subvouchers. If the supplier is not agreeable to this procedure, or if a time payment discount offered by the supplier cannot be taken because of use of this procedure, the individual Standard Form 444 shall be processed for payment without delay to obtain the benefit of the time payment discount.

(f) Pursuant to § 591.452 of this chapter ordering officers may be oppointed at isolated locations outside an installation or activity to make over-the-counter purchases using Standard Forms 44 or DD Forms 1155 when the conditions in § 3.609–9(b) of this title are satisfied.

(g) Department of the Army aviators and masters of Army-owned or operated vessels authorized by AR 715–232 to make emergency purchases under conditions prescribed therein may use Standard Forms 44.

§ 593.608–50 Use of DD Form 1155 for shipments to Army attachés.

(a) Certain small purchases made for Army attachés may be shipped direct from a supplier to the Assistant Chief of Staff for Intelligence, Department of the Army, for transmittal by surface pouch to the Army attaché.

(b) The following limitations shall apply—

(1) The maximum weight of each parcel shall not exceed 40 pounds;

(2) The maximum dimensions for each parcel shall be—

(i) Box—12 by 16 by 18 inches;

(ii) Flat package—4 by 18 by 18 inches; or

(iii) Cylindrical package—5 inches in diameter by 24 inches long; and

(3) A parcel shall not contain—

(i) Perishable, fragile, liquid, explosive, or flammable articles;

(ii) Firearms; or

(iii) Glass containers.

(c) Shipments shall be addressed to—

U.S. Army Attaché (City—Country), c/o Assistant Chief of Staff for Intelligence, Department of the Army, Washington, D.C. 20315.

(d) Shipments shall be identified by requisition and purchase order number, if available.

(e) Two copies of DD Form 1155, clearly indicating thereon the addressee to whom they are to be returned, shall be mailed by the contracting officer at the time the order is placed to—

Assistant Chief of Staff for Intelligence, Attention: Property Officer, Department of the Army, Washington, D.C. 20315.

(f) Payment shall be made upon the basis of a signed acceptance certificate of the Property Officer, Office of the Assistant Chief of Staff for Intelligence, on DD Form 1155.

§ 593.609 U.S. Government national credit card.

§ 593.609–1 General.

(a) Department of the Army aviators authorized by AR 715–232 to make emergency purchases while on authorized flights in Army aircraft and individuals authorized use of military vehicles while on official travel may make purchases by use of U.S. Government national credit cards.

(b) The delivery ticket prepared by the service station attendant and signed by the identification card holder at the time of delivery constitutes a delivery order consistent with AR 37–107.

Subpart G—Negotiated Overhead Rates

§ 593.703 Applicability.

(a) The appropriate negotiated overhead rates clause is authorized for use in all cost-reimbursement type contracts, except facilities contracts, with contractors listed for overhead negotiation in the master list of contractors for negotiated overhead rates and advance agreements for independent research and development costs. The master list is published annually and revisions thereto are published as required in defense procurement circulars (DPC's). The responsibility within the Department of the Army for the administration and maintenance of the master list is vested in the Commanding General, U.S. Army Materiel Command, who has assigned such responsibility to his Director of Procurement and Production.

(b) The appropriate negotiated overhead rates clause is authorized for use in cost-reimbursement type contracts, except facilities contracts, with any contractor not listed for overhead negotiation in the master list when—

(1) Such use will accomplish any or all of the purposes stated in § 3.702 of this title or will otherwise be advantageous to the Government.

(2) The initial use of the negotiated overhead rates clause selected has been coordinated with other Department of the Army procuring activities having a contractual interest with the contractor concerned. Where a procuring activity of the Departments of the Navy or Air Force has a contractual interest with the contractor concerned, coordination with that procuring activity shall be effected through the SENTINEL System Manager for the SENTINEL system organization or through the addressee in § 591.150 (b)(11) of this chapter for all other Department of the Army procuring activities; and

(3) Clearance by the cognizant head of procuring activity has been obtained.

(c) To insure uniformity in the manner of overhead settlement with each contractor to whom paragraph (a) or (b) of this section is applicable—

(1) Notification of the clearance by the cognizant head of procuring activity shall be furnished upon issuance to the addressee in § 591.150(b)(11) of this chapter, Attention: AMCPP-SC, for appropriate action to have the master list revised; and

(2) Each cognizant contracting officer shall include suitable safeguards to insure that no other provision is used in any subsequent cost-reimbursement type contract with the contractor concerned while the authorization in paragraph (b) of this section is in force or while the contractor is listed for overhead negotiation in the master list.

(d) Before discontinuing use of the negotiated overhead rates clause with

any contractor, clearance shall be obtained from the SENTINEL System Manager for the SENTINEL system organization or from the addressee in § 591.150 (b) (11) of this chapter for all other Department of the Army procuring activities. A request for clearance shall—

(1) Set forth all the circumstances bearing on the proposed discontinuance;

(2) Including the recommendation of the cognizant head of procuring activity; and

(3) Be coordinated in advance with any other interested Department of the Army procuring activity and the cognizant audit office.

§ 593.705 Procedure.

(a) When the Department of the Army is the sponsor of coordinated negotiations as described in § 3.706 of this title or when the contractor concerned has contracts with more than one Department of the Army procuring activity, negotiation cognizance shall be assigned to the procuring activity having the preponderance of contract interest. The conduct of negotiations may be assigned by the designated head of procuring activity to a field command or purchasing office of that activity, except where such reassignment is restricted by specific instructions from the SENTINEL System Manager for the SENTINEL system organization or from the Director of Procurement and Production, Headquarters, U.S. Army Materiel Command, for all other Department of the Army procuring activities.

(b) Upon notification by the Departments of the Navy or Air Force that coordinated overhead rate negotiations have been scheduled with a contractor, the Director of Procurement and Production, Headquarters, U.S. Army Materiel Command, or the SENTINEL System Manager, as appropriate, shall designate a procuring activity to represent the Department of the Army in the negotiations.

(c) The procuring activity assigned negotiation cognizance under paragraph (a) or (b) of this section shall furnish a principal representative of the Department of the Army for the purpose of—

(1) Conducting negotiations when the Department of the Army is the sponsor; or

(2) Representing the Department of the Army in negotiations sponsored by the Department of the Navy and Air Force if the extent of Department of the Army interest warrants participation.

(d) The principal Department of the Army representative shall be authorized to act for and on behalf of all Department of the Army procuring activities affected by the negotiation; consequently, he shall be selected because of his skill, tact, perseverance, experience, knowledge of procurement regulations, and familiarity with business practices. Procuring activities which do not have negotiation cognizance may designate personnel to attend the negotiation conference as observers, as technical advisors, or for training purposes.

(e) Before the negotiation conference, the principal Department of the Army representative shall—

(1) Solicit the comments and recommendations of other procuring activities as to the proposals made by the contractor and as to the related advisory audit report;

(2) Obtain the advisory comment and analyses of legal, pricing, audit, and technical personnel as to the rate or rates of overhead, application of cost principles, treatment of particular items of cost, and other pertinent issues;

(3) Develop the Department of the Army position in coordination with other interested Department of the Army procuring activities, with consideration being given to the limitations, special provisions, and cost-sharing arrangements of the affected contracts (any case in which agreement as to the Department of the Army position cannot be reached shall be referred to the SENTINEL System Manager or to the addressee in § 591.150(b) (11) of this chapter, as appropriate); and

(4) Notify in sufficient time to permit their participation all interested Department of the Army procuring activities, the Departments of the Navy and Air Force, and the cognizant audit office of the date established for the negotiation conference.

(f) The procuring activity having negotiation cognizance shall provide legal, pricing, and technical assistance to the principal representative in the preparation for and conduct of the negotiation conference and of any preliminary meetings.

(g) The negotiation summary prepared at the completion of the negotiations shall contain the following information as a minimum—

(1) The name, position, and organization of conferees representing the Government and the contractor;

(2) The purpose of the negotiation and period covered;

(3) A summary of the contractor's proposal, the pertinent advisory audit report comments, and the recommendations of legal, pricing, and technical advisors;

(4) The various rates of overhead resulting from the negotiation, with a discussion of the treatment given to cost factors requiring specific attention;

(5) A list of the contracts affected by the negotiation, showing contract number, total dollar value, and uninvoiced dollar amount, or a statement that the information is contained in the advisory audit report;

(6) Any special treatment agreed upon for contracts containing limitations, special provisions, or cost-sharing arrangements; and

(7) A specific comment as to the amounts allowed for costs of the contractor's independent research and development programs and the effect of such allowance on rates and total amounts of overhead and general and administrative expense.

(h) The negotiation summary shall be signed by the principal representative and shall be approved by an official responsible for procurement in the office which conducted the negotiations. Copies of the negotiation summary shall be distributed as follows, except that no distribution shall be made to the Departments of the Navy and Air Force when the contractor has no contracts with those Departments—

(1)—

Headquarters, U.S. Army Materiel Command, Attention: AMCPP-SC	[1] 3
Each subordinate command, installation, and activity of U.S. Army Materiel Command having contractual interest	3
Each other Department of the Army procuring activity having contractual interest	3
Headquarters, cognizant audit office	3
Headquarters, Defense Supply Agency, Attention: DSAH-FCA, Cameron Station, Alexandria, Va. 22314	25
Office of Naval Materiel, Department of the Navy (M-37), Washington, D.C. 20360	90
Headquarters, Air Force Systems Command (SCKPF), Andrews Air Force Base, Washington, D.C. 20331	60

[1] With one copy of distribution list.

(2) When the advisory audit report indicates that purchasing offices of Government agencies outside the Department of Defense have a contractual interest, one copy shall be forwarded to the purchasing office concerned.

§ 593.750 Negotiation of independent research and development costs.

(a) This section applies to all negotiations concerning the extent of allowability of costs of independent research and development (IR&D) (see § 15.205-35 of this title) under, or relating to, a contract to which Subparts B or F, Part 15 of this title applies. The procedures herein are intended to result in uniform application throughout the Department of the Army of ASPR cost principles relating to IR&D. IR&D costs are often an element in a contractor's overhead and hence may be considered in connection with overhead rate negotiations.

(b) The SENTINEL System Manager for the SENTINEL system organization and Headquarters, US. Army Materiel Command, for all other Department of the Army procuring activities, are responsible for administration of the program of coordinated negotiation of IR&D costs encompassed in the procedures set forth herein. Information required under the procedures herein shall be furnished the SENTINEL System Manager or the addressee in § 591.150(b) (11) of this chapter, Attention: AMCPP-SC, as appropriate.

§ 593.750-1 Negotiation cognizance.

(a) When a procuring activity has been assigned negotiation cognizance for purposes of overhead rate negotiation (see § 593.705), the same procuring activity shall be assigned negotiation cognizance for IR&D negotiation, whether such IR&D negotiation arises in conjunction with an advance agreement or

with determination of a final overhead rate.

(b) When no procuring activity has been assigned negotiation cognizance under § 593.705 and when it is desired to undertake IR&D negotiations with a contractor who is doing business with more than one military department, negotiation cognizance shall be assigned by Headquarters, U.S. Army Materiel Command, in accordance with the criteria and procedures in § 593.705. When the contractor is doing business only with the Department of the Army, negotiation cognizance shall be exercised by the procuring activity having the preponderant dollar interest after coordination with other purchasing offices concerned. Notification of the assumption of such cognizance shall be given promptly to the addressee in § 591.150(b)(11) of this chapter, Attention: AMCPP-SC.

§ 593.750-2 Prenegotiation review and evaluation.

(a) Before negotiations are undertaken, the procuring activity having negotiation cognizance shall inform the contractor of the provisions of § 15.205-35 of this title and shall request the contractor to submit his proposal of amounts he considers to be allowable, supported by information sufficient to permit evaluation. Following are guidelines as to supporting information considered necessary—

(1) A summary for the contractor's fiscal year for which allowance is sought, separately stated as to the total independent development program, of the cost elements and amounts experienced (or forecast, if appropriate);

(2) An analysis of net sales for at least 3 years immediately preceding the year being negotiated, showing separately the sales attributed to Department of Defense contracts and to other customers, together with the amount of independent research costs allocated to each of these sales categories for each year and the amount of independent development costs so allocated;

(3) A statement of the extent and scope of the contractor's IR&D programs for at least 3 years preceding the year being negotiated, and a comparison with the programs for the year under negotiation, including a summary of any significant changes in science and technology affecting these programs;

(4) A list of contracts currently in force with Department of Defense agencies, showing agency contract number, total dollar value, uninvoiced dollar value, type of contract, and cost-sharing provisions, if any;

(5) A statement of the broad plan of each program as distinguished from individual projects, indicating its scope, its relationship to the income producing activities of the contractor, the method by which the programs are managed, and the accounting procedures employed for equitably distributing the total costs; and

(6) A list of product lines to which the costs of each independent project are to be distributed, the extent to which Department of Defense agencies have contracts within each product line, and the proposed basis for distribution of such costs.

(b) In any case where the allowability of the proposed or claimed costs of IR&D cannot be established by review, analysis, and discussion of information submitted by the contractor in accordance with paragraph (a) of this section, the contractor shall be requested to submit a more detailed statement prepared as follows—

(1) The detailed statement shall be divided into two sections—

(i) One section shall describe the contractor's independent research program, as defined in § 15.205-35(a) of this title, for which allowance is requested under § 15.205-35(d);

(ii) One section shall describe the contractor's independent development program, as defined in § 15.205-35(b), for which allowance is requested under § 15.205-35(e).

(2) Each section shall contain information on each project, i.e. the smallest administratively recognizable unit of task assignment. Each project description shall include as a minimum—

(i) The title of the project;

(ii) The budgeted or actual annual expenditure;

(iii) The length of time the project has been running, and total expenditures to date;

(iv) The estimated date of completion of the project;

(v) The estimated total effort in terms of professional man-hours and the professional grade or classification of the various personnel to be used;

(vi) A summary of past technical achievements under this and related projects in the same field; and

(vii) A concise statement of the project objectives and a narrative description of the technical approach.

(3) The technical portions of the individual project descriptions shall be concisely stated in appropriate technical terminology such as is customarily used in reporting the subjects in scientific journals. Obvious justification of the work required by internal management shall not be included in the project description. Reports or reprints resulting from past activity under the projects may accompany the submission. In the case of an independent development project, the contractor shall indicate the product lines for which he has contracts with the Government and under which the indirect costs of the project are claimed to be allowable.

(4) In addition to the written descriptions, the procuring activity having negotiation cognizance may elicit further information about specific projects in direct discussions. Accordingly, each detailed statement shall also contain the name, title, and address of two or three officials in the contractor's firm with overall responsibility and supervision of the IR&D programs who have knowledge of other individuals with specialized engineering and financial background information about the programs.

(c) Heads of procuring activities having negotiation cognizance shall establish the number of copies of proposals, supporting information, and detailed statements to be submitted by contractors. At least one copy shall be furnished each interested purchasing office. If technical and scientific review will be performed by the Armed Services Research Specialist Committee (see § 593.750-3), 15 additional copies shall be obtained and forwarded to the SENTINEL System Manager or to the addressee in § 591.150(b)(11) of this chapter, as appropriate, for distribution.

(d) Pursuant to the Federal Reports Act of 1942 (5 U.S.C. 139-139f), the Bureau of the Budget has assigned Approval No. 22-R237 to the reporting requirement in this section.

§ 593.750-3 Technical and scientific review and evaluation.

(a) A technical and scientific review and evaluation of the contractor's proposal, supporting information, or detailed statement shall be accomplished except when, in the opinion of the procurement official responsible for the conduct of the negotiation, the extent of allowability of the estimated or claimed costs can be clearly and convincingly established without such review and evaluation.

(b) The technical and scientific review and evaluation shall—

(1) Determine whether the projects comprising each program are properly classified as either research or development;

(2) As to research, provide recommendations concerning scientific factors considered to affect the basis or extent to which the contractor's program is or is not appropriate for support; and

(3) As to development, provide recommendations as to the portion of the independent development program, if any, which is appropriate and the product lines to which such program costs should be allocated.

(c) When a contractor's normal course of business does not involve production work, the recommendation regarding a contractor's independent development program shall discuss the extent to which such development is related and allocable to the field of effort of the contractor's Government research and development contracts (see § 15.205-35(e) of this title).

(d) When a contractor's work is substantially with the Government, the recommendation shall—

(1) Discuss in particular the relevance of the various IR&D projects to the Government's interest, and

(2) Indicate those projects whose anticipated benefits are primarily commercial in nature or for other reasons have little relevance to the Government's interest.

(e) When a contractor is doing business with more than one military department, the military department which has negotiation cognizance shall be responsible for the technical and

scientific review and evaluation. The program information submitted by contractors listed in the master list (see § 593.703) shall, unless otherwise indicated in the master list, be reviewed and evaluated by the Armed Services Research Specialists Committee.

(f) When a contractor is doing business only with the Department of the Army, the procuring activity having negotiation cognizance is responsible for the technical and scientific review and evaluation. Assistance of the Department of the Army member of the Armed Services Research Specialists Committee shall be requested from Headquarters, U.S. Army Materiel Command, Attention: AMCRD-RS, Washington, D.C. 20315.

(g) The results of the technical and scientific review and evaluation shall be provided in writing to the requesting agency in the minimum number of copies necessary. Four copies shall be furnished the SENTINEL System Manager or the addressee in § 591.150(b)(11) of this chapter, as appropriate, by the procuring activity having negotiation cognizance.

§ 593.750–4 Use of audit services.

(a) An advisory report of the cognizant audit office shall be obtained where necessary to assist in establishing negotiation cognizance.

(b) Subject to the criteria in § 3.809 of this title, information obtained from contractor's pursuant to § 593.750–2 shall be referred to the cognizant audit office for advisory report as to—

(1) Reliability of the contractor's estimating and costing procedures;

(2) Methods used in identifying, segregating, and allocating costs of independent research and independent development programs;

(3) Allowability of costs within the criteria of § 15.205–35 of this title; and

(4) Other observations to provide cost guidance.

§ 593.750–5 Conduct of negotiations.

(a) The Department of the Army procuring activity having negotiation cognizance, as sponsor, shall—

(1) Insure that negotiations are fully coordinated with all other interested purchasing offices;

(2) Give timely notification of the time and place for the negotiation conference to all other interested purchasing offices;

(3) Furnish copies of information obtained pursuant to §§ 593.750–2 and 593.750–3 to all other interested purchasing offices; and

(4) In the conduct of negotiations, apply pertinent cost principles relating to IR&D programs as set forth in Part 15 of this title.

(b) Each purchasing office administering a contract which will be affected by the negotiations shall advise the procuring activity having negotiation cognizance of any limitations, special provisions, or cost-sharing arrangements contained in any such contract.

(c) Each purchasing office which sends a representative to participate in the negotiation conference shall insure that the representative is prepared for such participation by possession of a thorough knowledge of pertinent contract provisions, information submitted by the contractor, any advisory audit report, and any technical and scientific review and evaluation made by the Armed Services Research Specialists Committee or other reviewing group.

§ 593.750–6 Negotiation summary.

(a) Upon completion of negotiations, the procuring activity having negotiation cognizance shall prepare a negotiation summary which, in addition to the information required by § 593.705(g)(1), (2), (5), and (6) shall contain—

(1) A summary of the contractor's IR&D proposal and submitted information; the technical and scientific review and evaluation; pertinent audit comments; and the advisory comments of technical, pricing, and legal personnel of the procuring activity having negotiation cognizance;

(2) Special details of any negotiated cost allowance, including ceilings, if any, and the effect on overhead rates and general, and administrative expenses; and

(3) An estimate of the total cost, if any, to the Department of the Army resulting from agreements reached concerning the contractor's IR&D program (the cost estimate shall take into account both direct and indirect expenditure allocable to IR&D).

(b) The negotiation summary shall be signed and approved by the officials designated in § 593.705(h). Copies of the negotiation summary shall be distributed as follows, except that no distribution shall be made to the Departments of the Navy and Air Force when the contractor has no contracts with those Departments—

Headquarters, U.S. Army Materiel Command Attention: AMCPP–SC	[1] 3
Each subordinate command, installation, and activity of U.S. Army Materiel Command having contractual interest	3
Each other Department of the Army procuring activity having contractual interest	3
Headquarters, cognizant audit office	3
Headquarters, Defense Supply Agency, Attention: DSAH–FCA, Cameron Station, Alexandria, Va. 22314	25
Office of Naval Materiel, Department of the Navy (M–37), Washington, D.C. 20360	115
Headquarters, Air Force Systems Command (SCKPF), Andrews Air Force Base, Washington, D.C. 20331	177
Armed Services Research Specialists Committee, c/o addressee in §591.150(b)(11) of this chapter	5

[1] With one copy of distribution list.

§ 593.750–7 Recognition in contracts.

Agreements reached as a result of negotiations described in §§ 593.750–593.750–7 shall be incorporated in contracts affected thereby. Any limitations, ceilings, or cost-sharing arrangements shall be clearly described.

Subpart H—Price Negotiation Policies and Techniques

§ 593.801 Basic policy.

§ 593.801–2 Responsibility of contracting officers.

If the contracting officer cannot obtain a satisfactory solution, after exhausting the course of action outlined in § 3.801–2(c) of this title, he shall refer the prospective procurement to the cognizant head of procuring activity. If the head of procuring activity cannot resolve the matter, he shall forward the prospective procurement to the addressee in § 591.150(b)(6) of this chapter for a decision.

§ 593.802 Preparation for negotiation.

§ 593.802–1 Product or service.

(a) Before soliciting quotations, the contracting officer shall obtain an independent government cost estimate (IGCE) of the proper price level or value of the product or service to be purchased.

(b) The IGCE shall—

(1) Contain a statement by the preparing official as to the basis used in compiling the estimate and as to the extent of its reliability;

(2) Be properly marked or classified to prevent unauthorized disclosure of information developed;

(3) Be made a part of the documentation furnished the contracting officer responsible for procurement action;

(4) Serve as a part of the basis for evaluating reasonableness of offerors' cost proposal and for making awards on a sound basis;

(5) Establish realistic budgeting cost factors to support contract funding requirenments;

(6) Provide a factual basis for analysis of offerors' proposals by furnishing a cost comparison benchmark; and

(7) Provide, as appropriate, for a break-out between recurring and nonrecurring costs.

(c) The complexity of the estimating technique shall be commensurate with the anticipated value of the planned procurement.

§ 593.807 Pricing techniques.

§ 593.807–5 Defective cost or pricing data.

If the contracting officer believes that the release of information contemplated in § 3.807–5(b) of this title would compromise military security or disclose trade secrets or other confidential business information, he shall request from the addressee in § 591.150(b)(6) of this chapter the conditions under which it may be made available. In cases of urgency, direct communication between the contracting officer and the addressee in § 591.150(b)(6) is authorized.

§ 593.807–6 Refusal to provide cost or pricing data.

When the situation described in § 3.807–6 of this title exists and the contracting officer has exhausted all means available to him to secure the required data, he shall refer the procurement

action to the cognizant head of procuring activity. If the head of procuring activity is likewise unable to secure the required data, he shall refer the procurement action to the addressee in §591.150-(b)(6) of this chapter. Referral shall include, in addition to the information prescribed in § 3.807–6 of this title, the following—

(a) Type of contract and contract, solicitation, or purchase order number;

(b) A concise description of supplies or services being procured;

(c) Any outside influences and the time pressures affecting the procurement;

(d) Complete name and address of the company concerned;

(e) Complete description of the data the contractor or subcontractor refuses to submit;

(f) A summary statement as to the nature of approval action being requested; and

(g) A summary of the independent government cost estimate and price analysis of the contractor's proposal.

PART 594—SPECIAL TYPES AND METHODS OF PROCUREMENT

10. New §§ 594.110, 594.111, and 594.-150 are added; and new Subparts YY and ZZ are added, as follows:

§ 594.110 Cost-sharing policy.

Requests for deviations or waivers which require the advance written approval of the Secretary of Defense or his designee pursuant to § 4.110(d)(4) of this title shall be forwarded through the cognizant head of procuring activity to the Assistant Secretary of the Army (Research and Development) and shall contain sufficient information upon which the Assistant Secretary may conclude that approval would be in the best interests of the U.S. Government.

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

Requests for approval of special use allowances for the acquisition or construction costs of research facilities financed by educational institutions shall be forwarded through the cognizant head of procuring activity to the Assistant Secretary of the Army (Research and Development). Requests shall address each of the conditions set forth in § 4.111(e) of this title and shall clearly demonstrate that all of the conditions are met.

§ 594.150 Human factors engineering in research and development contracts.

(a) It is Department of the Army policy to apply principles of human factors engineering in the development of weapons and equipment to assure maximum effectiveness of the man-machine combination in the operational environment (see AR 70–8).

(b) Research and development contracts for materiel and equipment which require a human being for operation or maintenance shall include in the contract specifications specific requirements for the contractor to perform competent, professional human factors engineering to ensure that human factors engineering principles are incorporated into the design of the initial prototype.

(c) Contract specifications shall be explicit as to those human engineering factors, applicable to the materiel or equipment being procured. Human engineering factors include, but are not limited to, a consideration of the following in terms of the intellectual, physical, and psychomotor capabilities of intended user and maintenance personnel—

(1) Proper assignment of functions to machines and to operators;

(2) Human space requirements for operation and access for maintenance;

(3) Planning of operator functions and analysis of operator tasks;

(4) Layout of work space and design of operator stations;

(5) Information needed for operator decisions, e.g. selection of displays and controls;

(6) Environmental conditions, e.g. temperature, noxious gases, noise, vibration, illumination, stress;

(7) Compatibility of the equipment with the personal and protective gear of the fully equipped soldier;

(8) Communication under operational conditions;

(9) Simplification of maintenance; and

(10) Safety in operation and maintenance.

(d) When human engineering factors other than those above apply to the materiel or equipment being procured, they shall be explicitly stated in the contract specifications. Should any of the above factors not apply to the materiel or equipment being procured, they shall be omitted from the contract specifications.

Subpart YY—Procurement for Army Commissary Stores

Sec.

Subpart ZZ—Contracting for Aircraft Maintenance

AUTHORITY: The provisions of Subparts YY and ZZ issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

Subpart YY—Procurement for Army Commissary Stores

§ 594.5100 Scope of subpart.

This subpart prescribes policies and procedures for procurement of items for resale in Army commissary stores.

§ 594.5101 Selection of items for resale.

AR 31–200 places the responsibility for selecting items and brand names thereof to be purchased for resale in Army commissary stores in Continental United States, including Alaska and Hawaii, upon the commissary officer. In oversea areas selection is accomplished as determined by the responsible commander. AR 31–100 lists subsistence supplies authorized for sale in Army commissary stores.

§ 594.5102 Brand name contracts.

(a) Pursuant to the commodity assignments in § 5.1201–6 of this title, the Defense Personnel Support Center (DPSC) of the Defense Supply Agency (DSA) establishes brand name contracts for certain items for resale in commissary stores. These contracts are published in the DSA Supply Bulletin 10–500 and 10–600 series and their use is mandatory by Department of the Army, except where quantities needed do not meet minimum shipping quantities which may be specified therein.

(b) Ordering officers may be appointed pursuant to § 591.452 of this chapter to place calls and issue delivery orders under brand name contracts without monetary limitation. The authority of such ordering officers shall not include breach, termination, and dispute proceedings; these matters shall be referred to the purchasing office for necessary action.

(c) When an item is available under a brand name contract, it shall be ordered from the supplier named in the Supply Bulletin at the price set forth therein unless the supplier offers a voluntary price reduction (VPR). Suppliers shall not be solicited to determine whether they will offer a VPR on an item.

§ 594.5103 Blanket purchase agreements.

Contracting officers may establish blanket purchase agreements and authorize individuals in Army commissary stores to place calls under prepriced BPA's in accordance with § 593.605–3 of this chapter.

§ 594.5104 Open market purchases.

Purchases of items not available from brand name contracts or blanket purchase agreements shall be made by the installation or activity contracting officer, whether the purchase is formally advertised or negotiated.

§ 594.5105 Special instructions to suppliers.

In addition to the information prescribed in Supply Bulletin 10–500 to be included in delivery orders under brand name contracts, the following shall be included in such delivery orders and in all purchase orders for resale items not purchased under brand name contracts—

(a) A statement that the supplier shall place the purchase or delivery order number on the delivery document when delivery is made by the supplier's own transportation or by common carrier;

(b) A statement that, when a partial shipment is made by the supplier, the supplier shall notify the contracting officer in writing of the anticipated date of shipment of the remainder; and

(c) The commissary store receiving schedule, together with instructions to the supplier to notify the common carrier of the commissary store receiving schedule when shipment is to be made by common carrier. (Consideration shall be given to the fact that less than carload (LCL) shipments are not controlled by the supplier and cannot always be delivered on a certain date or at a certain

time; therefore, a time spread for delivery of LCL shipments by common carrier shall be allowed.)

Subpart ZZ—Contracting for Aircraft Maintenance

§ 594.5201 Contract Assistance Team.

(a) A Contract Assistance Team has been established to provide assistance to Department of the Army purchasing offices within the continental United States in contracting for aircraft maintenance. The mission of the team is to furnish specialized technical and professional aid in the negotiation and award of contracts for aircraft maintenance so as to assure the adoption and uniform utilization of accepted standards and techniques in the procurement of aircraft maintenance services. The Contract Assistance Team includes specialists in procurement and aircraft maintenance as well as such other special skills and professions as are necessary to accomplish its mission.

(b) Department of the Army purchasing offices in the continental United States shall use the services of the Contract Assistance Team in connection with any procurement action for aircraft maintenance which will result in a contract having an estimated dollar value in excess of $100,000. The services of the team may be used on such procurements when the resultant contract amount is $100,000 or less at the option of the contracting officer.

(c) Requests for the team's assistance shall be forwarded prior to the issuance of solicitations and as far in advance as circumstances permit to the Commanding General, U.S. Army Aviation Systems Command, 12th and Spruce Streets, St. Louis, Mo. 63166. An information copy of each request shall be forwarded to the addressee in § 591.150(b)(11) of this chapter, Attention: AMCPP-PC.

(d) Requests for assistance shall include—

(1) A description of aircraft or aircraft components that will be the subject of the proposed maintenance contract;

(2) The quantity of each;

(3) The location of the aircraft or components;

(4) The nature of the maintenance services required;

(5) The date or period when the maintenance services will be required;

(6) The planned date of issuance of solicitation;

(7) The tentative date of award of contract;

(8) A statement as to whether the estimated total cost of the proposed contract will be more or less than $100,000;

(9) The address and telephone number of the purchasing office and the name of the contracting officer responsible for the proposed procurement;

(10) The date when requested assistance will be needed;

(11) The location where contract assistance services are to be performed; and

(12) The estimated duration the Contract Assistance Team's services will be required.

(e) Upon receipt of a request for assistance, the Commanding General, U.S. Army Aviation Systems Command, shall arrange for the Contract Assistance Team to meet with the contracting officer concerned at appropriate times and places.

PART 595—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

11. Part 595 is revised to read as follows:

Subpart A—Procurement Under Federal Supply Schedule Contracts

Sec.

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

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Procurement of Printing and Related Supplies

Subpart K—Coordinated Procurement

AUTHORITY: The provisions of this Part 595 issued under secs. 2301-2314, 3012, 70A Stat. 127-133, 157; 10 U.S.C. 2301-2314, 3012.

Subpart A—Procurement Under Federal Supply Schedule Contracts

§ 595.101 Federal Supply Schedule contracts.

(a) Ordering officers may be appointed pursuant to § 591.452 of this chapter to place delivery orders or calls against Federal Supply Schedule contracts in aggregate amounts not exceeding $250, except that they shall not be authorized to—

(1) Place delivery orders or calls under conditions covered in § 5.102-2(b)(1) and (2) of this title;

(2) Make a purchase from a source other than that in a Federal Supply Schedule not mandatory upon the Department of Defense under the exception in § 5.103 of this title;

(3) Place delivery orders or calls under completely optional Federal Supply Schedules under § 5.104-1 of this title;

(4) Place delivery orders or calls in any amount under any Federal Supply Schedule for articles of foreign origin for use in the United States (see § 595.106); or

(5) Take any adminstrative actions under § 5.108 of this title (see § 595.108).

(b) With respect to use of U.S. Government national credit cards, see § 593.609 of this chapter.

§ 595.102 Mandatory Federal Supply schedules.

§ 595.102-2 Exceptions to mandatory use.

When a contracting officer in accordance with § 5.102-2(b)(1) of this title has requested the Commissioner, Federal Supply Service, General Services Administration, to waive the requirement for using a Federal Supply Schedule item and the waiver is not granted, the case shall be referred to the cognizant head of procuring activity for final decision.

§ 595.102-4 Establishment or revision of Federal Supply Schedules mandatory upon the Department of Defense.

Requests for the establishment of or a change to a Federal Supply Schedule mandatory upon elements of the Department of Defense shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(11) of this chapter and shall contain complete item identification including FSN if available, item use, and full justification for the action recommended. The head of procuring activity shall include its recommendations in the matter.

§ 595.106 Federal Supply Schedules with multiple source provisions.

(a) The justification memorandum required by § 5.106(a) shall be prepared and signed by the activity initiating the purchase request and shall be reviewed and approved by the chief of the purchasing office before an order is placed.

(b) Procurement of articles of foreign origin from Federal Supply Schedules shall be made only after the determinations required by Part 6 of this title and Part 596 of this chapter have been made or obtained from the appropriate approving authority.

§ 595.108 Administration of orders under Federal Supply Schedule contracts.

Whenever there is cause for taking an administrative action prescribed in § 5.108 of this title incident to the performance of an order placed by an ordering officer (see § 595.101), the matter shall be referred to the purchasing office for necessary action.

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

§ 595.201 Procurement from General Services Administration Stores Depots.

AR 725–50 authorizes accountable property officers and other individuals identified therein to order supplies from General Services Administration Stores Depots using MILSTRIP procedures (see § 591.452–6 of this chapter).

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Procurement of Printing and Related Supplies

§ 595.601 Printing and related supplies.

(a) AR 310–1 contains instructions which contracting officers shall follow pertaining to—

(1) Public printing and duplicating, including contract field printing;

(2) Preparation of the Annual Contract Printing Report (JCP Form 2), Reports Control Symbol JCP–1003; and

(3) The procurement of envelopes.

(b) AR 341–10 contains procedures for the procurement, control, and use of matter bearing the official indicia "Postage and Fees Paid, Department of the Army."

(c) Blank paper, ink, glues, and other related supplies manufactured or regularly carried in stock by the Government Printing Office (GPO) and which are used within the District of Columbia, shall be purchased from that office. Purchases of these items for field use may be made otherwise if they can be procured cheaper for delivery in the field than from the GPO, taking into consideration the cost of packing and transportation. Paragraph 11, section II, AR 37–27, contains instructions relative to purchases of Government publications from the GPO.

Subpart K—Coordinated Procurement

§ 595.1102 Responsibilities under single department procurement.

(a) The Commanding General, U.S. Army Material Command, shall be responsible for the assignment of procurement responsibility to procuring activities within the Department of the Army of those commodity assignments (see § 5.1201–3 of this title) made to the Department of the Army under the Department of Defense Coordinated Procurement Program.

(b) The Department of the Army procuring activity assigned procurement responsibility for a commodity shall be responsible for collecting and coordinating the requirements of the Department of the Army, or arranging therefor.

§ 595.1103 General principles governing implementation of procurement assignments.

§ 595.1103–1 Standard format—development and promulgation of implementing procedures.

Implementing procedures for Army single department procurement assignments are contained in AR 715–15.

§ 595.1103–4 Emergency.

Purchases made under the emergency provision of § 5.1103–4 of this title shall be limited to those where circumstances and conditions are comparable to those described in § 3.202–2 of this title.

§ 595.1104 Items in short supply.

Shortages of supplies and services requiring coordination with other Departments shall be reported, with complete information thereon, to the addressee in § 591.150(b)(11) of this chapter for resolution.

§ 595.1118 Procurement agreements.

To the extent that any interservice support agreement involves procurement, it may be executed under authority of, and at the level indicated in, AR 1–35. A copy of all proposed and final procurement agreements with other military departments shall be furnished the Commanding General, U.S. Army Materiel Command, Attention: AMCPP–SP, Washington, D.C. 20315.

PART 596—FOREIGN PURCHASES

12. Section 596.103–2 is revised; new §§ 596.104 and 596.104–4 are added; § 596.402 is revised; and new Subparts F, H, and K are added, as follows:

§ 596.103–2 Nonavailability in the United States.

(a) When determinations of nonavailability in the United States are required (determinations are not required for items listed in § 6.105 of this title), they shall be prepared in the format below and shall be signed by the contracting officer—

DETERMINATION

Pursuant to the authority contained in section 2, title III of the Act of March 3, 1933, popularly called the Buy American Act (41 U.S.C. 10 a–d), I hereby find:

a. (Describe the item(s) to be procured, unit, quantity, and purpose for which intended.)

b. (State actual or estimated cost including transportation to destination and any applicable duty.)

c. (State country of origin and name and address of prospective contractor.)

d. (State whether the item(s) is (are) manufactured and assembled in the country of origin, or is (are) assembled in the United States, indicating whether the manufacture or assembly constitutes the greater percentage of cost.)

e. (State facts clearly establishing the nonavailability of or feasibility of substituting domestic source end products, including a listing of performance requirements or characteristics of the foreign end product which are not available in a domestic source end product and which are essential to meet the military requirement.)

f. (State reasons why the requirement cannot be foregone, the impact on the military operation should the foreign end product not be purchased, and whether the purchase is for a one-time or recurring requirement.)

Based upon the above showing of facts, I hereby determine that:

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

b. The requirement cannot be foregone.

(Signature)

(b) Approvals of officials in § 6.103–2(b) (3) and (4) of this title (approval for procurement of items listed in § 6.105 of this title is required in accordance with § 6.103–2(b)) shall be prepared in the format below and shall be signed by the approving authority—

APPROVAL FOR PURCHASE

The requirement of the Buy American Act that domestic source end products be acquired for public use is not applicable to the procurement contemplated since said procurement is within the nonavailability exception stated in the Act. In accordance with the Balance of Payments Program, the feasibility of foregoing the requirement or providing a U.S. substitute has been considered. Authority is granted to the contracting officer (enter name of installation/activity) to procure (describe item(s)) of foreign origin at an (actual) (estimated) total cost of $_____, including duty and transportation costs to destination.

(Signature)

(c) When approval of the Secretary of the Army or Secretary of Defense is required, a letter request containing the following information and to which is attached a copy of the contracting officer's Determination shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter—

(1) A complete description of the item(s), including unit, quantity, and purpose for which intended;

(2) The actual cost, if available, including transportation to destination and any applicable duty, together with a copy of the solicitation and abstract of bids or proposals; or, when the actual cost is not available, the estimated cost, including transportation cost to destination and any applicable duty, together with a statement as to how the estimated costs were determined;

(3) The country of origin of the foreign end product; if a communist area, justification for the need for purchasing the product from a source in a Communist area;

(4) The name and address of the prospective contractor;

(5) A statement as to whether the foreign end product is manufactured and assembled in the country of origin, or whether the product is assembled in the United States, indicating whether the manufacture or assembly constitutes the greater percentage of cost;

(6) A statement of facts clearly establishing the nonavailability of domestic source end products, together with a listing of performance requirements or characteristics of the foreign end product which are not available in a domestic source end product and which are essential to meet the military requirement (this statement shall definitely establish that the performance requirements or characteristics listed are essential to the military requirement and are not available in domestic source end products; individual preference for a particular make or type of equipment is not sufficient justification); and

(7) A statement giving reasons why the requirement cannot be foregone, the impact upon the military operation should the foreign end product not be purchased, and whether the purchase is for a one-time or recurring requirement.

(d) When approval of the Secretary of the Army or Secretary of Defense is obtained, the contracting officer shall use the Secretarial approval in lieu of the Approval for Purchase statement in paragraph (b) of this section. The Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics), has been delegated the authority to approve the procurement of foreign end products pursuant to § 6.103-2(b)(2) of this title.

(e) A copy of each determination and approval for purchase shall be attached to the pertinent payment voucher.

§ 596.104 Procedures.

§ 596.104-4 Evaluation of bids and proposals.

(a) Proposed awards submitted for Secretarial decision pursuant to § 6.104-4 (b) or (d)(3) of this title shall be forwarded through the cognizant head of procuring activity for its recommendations to the addressee in § 591.150(b)(6) of this chapter.

(b) When appropriate, contracting officers shall request bidders or offerors to extend dates of acceptance of bids or offers.

§ 596.402 Exceptions.

(a) The determination and approval for purchase prescribed in § 596.103-2 shall be made prior to a contracting officer purchasing supplies originating from sources within Communist areas when the purchase is for $2,500 or less. The determination shall clearly explain the unusual situation which necessitated the purchase.

(b) Requests for approval of exceptions for purchases for more than $2,500 shall be forwarded through the cognizant head of procuring activity to the addressee in §591.150(b)(6) of this chapter and shall contain the information required in § 596.103-2(c) together with a statement explaining the unusual situation which necessitates the purchase.

(c) Appeals made to the Secretary of the Treasury pursuant to § 6.402(c) of this title shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

Subpart F—Duty and Customs

Sec.
596.603 Emergency purchases of war materials abroad.
596.603-4 Customs entries and duty-free certificates.
596.603-5 Immediate release permits.
596.604 Supplies for vessels or aircraft operated by the United States.

Subpart H—Balance of Payments Program—Procurement of Supplies and Services for Use Outside the United States and Procurement of Scientific and Technical Knowledge Involving Foreign Expenditures

596.802 Deviations.
596.804 Real property construction, repair, and maintenance.
596.804-2 Project approvals.
596.805 Supply and service contracts.
596.805-2 Procurement limitations.
596.806 Procedures for supply and service contracts.
596.806-1 Restricted solicitation.

Subpart K—Use of U.S.-Owned Foreign Currency for Payment of Contracts

596.1106 Awards.
596.1106-3 Awards requiring approval by higher authority.
596.1107 Determinations of nonfeasibility and contract certifications.

AUTHORITY: The provisions of Subparts F, H, and K issued under secs. 2301-2314, 3012, 70A Stat. 127-133, 157; 10 U.S.C. 2301-2314, 3012.

Subpart F—Duty and Customs

§ 596.603 Emergency purchases of war materials abroad.

§ 596.603-4 Customs entries and duty-free certificates.

Procuring contracting officers (PCO's) are designated as Government representatives to execute Customs Entries and Duty-Free Certificates, except—

(a) For Canadian supplies (see § 6.605-4(a) of this title); and

(b) For contracts assigned for administration, the administrative contracting officer (ACO) is responsible (see § 1.406 of this title).

§ 596.603-5 Immediate release permits.

Issuance of immediate release permits shall be accomplished by PCO's and ACO's as indicated in § 596.603-4.

§ 596.604 Supplies for vessels or aircraft operated by the United States.

The duty-free entry certificate in § 6.604(b) of this title shall be executed by PCO's and ACO's as indicated in § 596.603-4.

Subpart H—Balance of Payments Program—Procurement of Supplies and Services for Use Outside the United States and Procurement of Scientific and Technical Knowledge Involving Foreign Expenditures

§ 596.802 Deviations.

Requests for deviations shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter and shall set forth with particularity the reasons for requesting the deviation.

§ 596.804 Real property construction, repair, and maintenance.

§ 596.804-2 Project approvals.

(a) See AR 37-43, 415-15, 415-35, and 420-10 with respect to projects for construction, repair, and maintenance of real property outside the United States.

(b) Requests for approval of proposed repair projects described in § 6.804-2 (a) and (b) of this title shall be forwarded through the cognizant head of procuring activity to the Chief of Engineers, Department of the Army, Washington, D.C. 20315.

§ 596.805 Supply and service contracts.

§ 596.805-2 Procurement limitations.

(a) Requests for approval of the Secretary of the Army or Secretary of Defense to procure foreign end products (including construction materials) or services for use outside the United States shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) and shall contain the following information—

(1) A complete description of the foreign end product or service contemplated for purchase;

(2) The purpose for which the foreign end product or service is intended;

(3) If a foreign end product—

(i) The unit and quantity;

(ii) The required delivery date;

(iii) The cubic measure or weight when packed;

(iv) The country of origin and, if a Communist area, justification for the need for purchasing the product from a source in a Communist area; and

(v) A statement as to efforts made to obtain a U.S. end product and results thereof;

(4) If a foreign service—

(i) The period for which required;

(ii) The manner in which the service was previously performed, i.e. in-house or by contract—

(*a*) If in-house, reasons why the service must now be obtained by contract, or

(*b*) If a new requirement, reasons why the service must be obtained by contract, and

(iii) A statement as to efforts made to obtain organic capability to perform the service and results thereof;

(5) If under § 6.805-2(a)(11) of this title, Unreasonable Cost—

(i) The estimated costs from the foreign source and the U.S. source, showing as a separate cost transportation applicable to the domestic source end product or service;

(ii) A statement as to how the estimated costs were determined; and

(iii) The name and address of the prospective source in the foreign country and in the United States, when known;

(6) A statement as to whether the purchase is a one-time or recurring requirement; if a recurring requirement, the date of approval of the foreign source procurement determination for the previous requirement and by whom approved;

(7) The type contract contemplated with reasons therefor;

(8) A statement as to whether the procurement will be competitive or noncompetitive, and, if noncompetitive, reasons therefor;

(9) The price paid for the last previous procurement of the product or service and—

(i) Whether a domestic source end product or service or foreign end product or service was procured;

(ii) The date of the procurement;

(iii) The name and address of the contractor; and

(iv) If purchased under a cost-plus-a-fixed-fee (or incentive fee) contract, the amount of the fee indicated separately;

(10) A statement giving reasons why the requirement cannot be foregone and the impact upon the military operation should the offshore purchase not be made; and

(11) Any other pertinent information peculiar to the procurement, the knowledge of which would give a clear understanding of the necessity for the procurement.

(b) Requests for approval of foreign source procurement determinations shall be obtained in advance of issuance of solicitations and those for approval of recurring requirements shall be submitted so as to reach the addressee in § 591.150(b)(6) of this chapter at least ninety (90) calendar days prior to the date contemplated for issuance of the solicitation.

§ 596.806 Procedures for supply and service contracts.

§ 596.806–1 Restricted solicitation.

Submissions for approval of the Secretary of Defense pursuant to § 6.806–1(b)(1) of this title shall contain the information in § 596.805–2(a) and shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

Subpart K—Use of U.S.-Owned Foreign Currency for Payment of Contracts

§ 596.1106 Awards.

§ 596.1106–3 Awards requiring approval by higher authority.

(a) Referrals shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

(b) The Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics) has been delegated the authority to determine whether a proposed procurement described in § 6.1106–3 of this title shall be made payable in U.S.-owned foreign currency or in U.S. dollars.

§ 596.1107 Determinations of nonfeasibility and contract certifications.

Distribution of Contract Certifications shall be made in accordance with AR 37–39. Other distribution may be made in accordance with instructions issued by heads of procuring activities.

PART 597—CONTRACT CLAUSES

13. Part 597 is revised to read as follows:

Sec.

AUTHORITY: The provisions of this Part 597 issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

§ 597.000 Scope of part.

This part implements Part 7 of this title with respect to uniform contract clauses for use in connection with the procurement of supplies and services and sets forth additional clauses to be used in Department of the Army contracts under the conditions prescribed. No special contract clauses of a repetitive nature (see § 1.108(a)(2) of this title) shall

be authorized for use by a head of procuring activity or shall be used by a purchasing office unless deviations from ASPR or APP are first obtained in accordance with § 1.109–5 of this title and § 591.109–5 of this chapter.

Subpart A—Clauses for Fixed-Price Supply Contracts

§ 597.103 Required clauses.

§ 597.103–1 Definitions.

Additional definitions used shall not be inconsistent with the provisions of this subchapter.

§ 597.103–2 Changes.

When reasonable and practicable under the circumstances of a particular procurement, the contracting officer may substitute in the Changes clause a period longer or shorter than "30 days."

§ 597.103–5 Inspection.

(a) Specifications which do not contain complete and definite quality assurance provisions shall be supplemented to the extent necessary to define clearly the inspections required to be performed by the contractor.

(b) Solicitations shall contain reasonably definitive descriptions of the inspection system to be maintained by the contractor when it will be necessary for the contractor to establish an inspection system pursuant to subparagraph (e) of the Inspection clause (§ 7.103–5 of this title) which—

(1) Is likely to represent a departure from customary industry procedures;

(2) Is of a nature not normally found among the prospective contractors who may be expected to participate in the procurement; or

(3) May reasonably be expected to have a significant impact on the cost or other aspect of the procurement.

§ 597.103–8 Assignment of claims.

(a) A head of procuring activity may authorize deletion of the last sentence of subparagraph (a) of the Assignment of Claims clause in conformance with § 7.103–8 of this title.

(b) Reduction of or setoff from payments to be made to an assignee shall be effected in accordance with §§ 163.108–7 and 163.108–8 of this title as appropriate.

(c) In a case where a contracting officer believes that an assignee has received payments in excess of its beneficial interest and that a refund is to the advantage of the Government, the contracting officer may, after obtaining legal advice and approval at a level above the contracting officer, seek to have the assignee release moneys in excess of such beneficial interest.

(d) A contracting officer shall acknowledge notices of assignment filed by assignees. Where a notice of assignment of moneys due under a definitive contract, which supersedes a letter contract, is received pursuant to the Assignment of Claims Act of 1940, as amended, such notice shall be acknowledged regardless of the fact that a notice of assignment of moneys due under the letter contract had been previously acknowledged. The two notices of assignment shall be considered as one and filed accordingly.

(e) Where direct payment is made to an assignee, the contractor shall furnish on each voucher, invoice, or other supporting document, a statement to the effect that he recognizes the assignment, its validity and the right of the assignee to receive payment.

(f) A contracting officer shall, upon request of a contractor, furnish proposed assignees information regarding the status of the contract at the time of the assignment. The contracting officer shall advise the assignee that the information is furnished only for privileged purposes restricted to use in connection with the assignment.

§ 597.103–12 Disputes.

(a) The head of procuring activity, U.S. Army, Europe, may modify the Disputes clause in § 7.103–12 of this title to read as set forth below: *Provided, however*, That the Commander in Chief, U.S. Army, Europe, may reserve to his headquarters the legal functions relating to appeals from disputes and to litigation arising from such contracts which are executed by purchasing offices in Europe and may take the action of the head of procuring activity in paragraphs (c), (d), and (e) of this section.

DISPUTES (APRIL 1963)

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days of the receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to ----------[*]----------. The decision of the ----------[*]----------, or his duly authorized representative (other than the Contracting Officer under this contract) for the determination of such appeals shall be final and conclusive if the amount involved in the appeal is $50,000 or less. If the amount involved exceeds $50,000 such decision shall be final and conclusive unless, within 30 days after receipt by the Contractor thereof, the Contractor furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals, or of the ----------[*]---------- in the case of appeals involving amounts of $50,000 or less, shall be final and conclusive [1. unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.] [2. to the extent permitted by U.S. law.] In connection with any appeal proceeding under this clause, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: *Provided*, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

(b) In the above clause—

(1) The space indicated "----------[*]----------" shall be completed to state the proper title of the head of procuring activity (or the Commander in Chief, U.S. Army, Europe, if he so elects) pursuant to paragraph (a) of this section who has established the U.S. Army Board of Contract Appeals, Europe, in accordance with paragraph (c) of this section;

(2) The bracketed language numbered ----------[1]---------- in the clause shall be used in all contracts except those in which it is anticipated that the contractor will be a foreign entity, and

(3) The bracketed language numbered ----------[2]---------- in the clause shall be used in all contracts in which it is anticipated that the contractor will be a foreign entity.

(c) The head of procuring activity, U.S. Army, Europe (or the Commander in Chief, U.S. Army, Europe, if he so elects) shall appoint a board to be known as "The U.S. Army Board of Contract Appeals, Europe." The Board shall consist of three or more members who shall be persons trained in the law, one of whom shall be designated by the appointing authority as President of the Board. There shall also be appointed a Recorder of the Board who shall perform such duties as the Board may prescribe, and who may also be a member of the Board. The Board shall be designated by the appointing authority as his authorized representative to hear, consider, and decide as fully as the appointing authority himself might do, all appeals under contracts providing for such appeals. The Board shall be granted all powers necessary and incident to the proper performance of its duties and, with the approval of the appointing authority, shall adopt and promulgate its own methods of procedure, rules, and regulations for its conduct and for the preparation and presentation of appeals and the issuance of its decisions. The appointing authority shall also designate one or more trial attorneys, who shall be qualified attorneys at law, for the preparation and presentation of the contentions of the Government in relation to appeals before the Board.

(d) The appointing authority shall issue instructions for processing appeals to the U.S. Army Board of Contract Appeals, Europe. An appeal to the Secretary taken from the decision of the Board shall be processed in accordance with paragraph (e) of this section.

(e) Upon receipt of a notice of appeal from the decision of the U.S. Army Board of Contract Appeals, Europe, or of advice that an appeal has been filed, the contracting officer shall immediately transmit to the appointing authority such notice or advice. Thereupon the appointing authority shall perform the duties of the contracting officer as set forth in Rule 4, § 30.1 of this title and § 616.1 of this chapter. Signed statements

or summaries of expected testimony are not required with the comprehensive report when the substance of expected testimony is set forth in the transcript of proceedings.

§ 597.103–13 Renegotiation.

Contracts placed with the Canadian Commercial Corporation are exempted from compliance with the requirements of § 7.103–13 of this title.

§ 597.103–20 Covenant against contingent fees.

Contracts for the sale or lease of Government-owned real or personal property shall contain the following modification of the clause in § 7.103–20 of this title—

COVENANT AGAINST CONTINGENT FEES (FEBRUARY 1965)

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to require the Contractor to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

§ 597.105 Additional clauses.

The clauses set forth in § 7.105 of this title shall be used in fixed-price supply contracts in accordance with the instructions of heads of procuring activities.

§ 597.107 Price escalation clause (labor and material).

(a) The clause set forth in § 7.107(c) of this title shall not be used where it is desired to adjust contract prices upon the basis of quantitative changes in the original estimates of labor hours or materials. When the criteria in § 7.107(a) of this title are met, the clause may be used in the procurement of items other than those of a standard commercial nature where adequate cost experience has been obtained on previous contracts and where the design of the supplies has been stabilized.

(b) Considerable latitude is permitted and encouraged in the selection of types of labor and material and rates of pay or price per unit to be negotiated under § 7.107(b) of this title. Wherever possible and practicable, costs selected for escalation should be reduced to a type of material price or rate of pay agreement that will require little if any audit review if a price adjustment is called for by either of the contracting parties.

§ 597.150 Department of the Army clauses.

The following clauses shall be used in fixed-price supply contracts in accordance with instructions given.

§ 597.150–1 Plant protection.

In those cases where another military department or agency does not have plant cognizance and the contracting officer deems it necessary to retain some control as to the plant protective devices in a particular plant, the contract shall contain one of the following clauses—

(a) PLANT PROTECTION (FEBRUARY 1965)

The Contractor shall maintain in and about his plant adequate plant protective devices and shall employ such watchmen, guards, and other personnel as the Contracting Officer may deem necessary to prevent espionage, sabotage, and other malicious destruction or damage.

(b) PLANT PROTECTION (FEBRUARY 1965)

(a) The Contractor shall maintain in and about his plant adequate plant protective devices and shall employ such watchmen, guards, and other personnel as the Contracting Officer may deem necessary to prevent espionage, sabotage, and other malicious destruction or damage. If after commencement of performance of this contract, the Contracting Officer shall require and authorize in writing the installation of additional plant protective devices or the employment of additional watchmen, guards, or other personnel, the cost of any such devices installed or the pay of any such personnel employed, or both shall be reimbursed to the Contractor upon submission of vouchers approved by the Contracting Officer: *Provided*, That no reimbursement for any such installation or pay shall be made in excess of the cost thereof, as estimated in advance and approved in writing by the Contracting Officer.*

(b) Title to all plant protective devices and equipment installed under paragraph (a) of this clause shall be in the Government, and shall not be affected by incorporation or attachment of such devices and equipment to any property not owned by the Government, nor shall any such device or equipment become a fixture or lose its identity as personality by reason of affixation to any realty. After completion or termination of the contract, the Government may, (i) allow the contractor to acquire any such devices and equipment under the conditions prescribed by and at a price or prices approved by the Contracting Officer, (ii) require the Contractor to comply, at Government expense, with directions of the Contracting Officer with respect to removal and shipment of such devices and equipment, or (iii) abandon all such devices and equipment in place, and thereupon all obligations of the Government regarding such abandoned devices and equipment shall cease.

(c) PLANT PROTECTION (GOVERNMENT-OWNED CONTRACTOR-OPERATED PLANTS) (FEBRUARY 1965)

(a) The Contractor shall at all times during the performance of the work under this Contract comply with all applicable Federal, State and local statutes, and with such rules and regulations as are furnished to the Contractor by the Conracting Officer, governing the manufacture, storage, loading, handling, or transporting of military explosives, pyrotechnic, and inert materials. The Contractor shall maintain such additional safety precautions for its personnel, for facilities staffed and operated by it, and for work in process, as are customary in the industry or in the Contractor's private operations. All personnel having access to the plant, including Government personnel, shall comply with all instructions issued by the Contractor in furtherance of the safety precautions. The Contractor shall install and maintain in and about the plant such plant protective devices and shall employ such guards and other personnel as the Contracting Officer may approve, including such personnel and protective devices for the prevention of espionage, sabotage, and other malicious destruction or damage. The Contractor shall make available such information with respect thereto as the Contracting Officer may request. The use by the Contractor of such Government-owned safety or plant protective equipment as may be located at the plantsite is authorized subject to approval by the Contracting Officer.

(b) The Contractor shall furnish the authorized Security and Safety personnel of the Department of the Army a survey of the existing internal security system and explosion-and-fire-prevention system in the portions of the plant staffed and operated by the Contractor. The Contractor shall make any changes necessary to cause the existing internal security system and explosion-and-fire-prevention system to comply with all applicable local, State, and Federal laws, rules, and regulations, including such Department of the Army regulations or _____ instructions as are
(Procuring Activity)
furnished to the Contractor by the Contracting Officer, governing the manufacture, storage, loading, handling, or transporting of military explosives, pyrotechnic, and inert materials.

(c) At any time during the term of this contract, the Contracting Officer may require the Contractor to install and maintain in and about the plant additional protective devices, equipment, and personnel. The Contractor shall submit promptly to the Contracting Officer for prior approval as to estimated cost, detailed inventories, including the estimated cost of each item of protective devices or equipment so required to be installed and of installing the same, and a detailed estimate of the cost of maintaining any such additional protective devices or equipment and personnel.

(d) Title to all plant protective devices and equipment added under paragraph (c) of this clause shall be in the Government. The Contractor, during the term of this contract or any extension thereof, shall maintain and keep in good condition and repair all such protective devices and equipment.

(e) The Contracting Officer and authorized Security and Safety personnel of the Department of the Army, at all times during the performance of this contract or any extension thereof, shall have access to the portions of the plant staffed and operated by the Contractor in order to inspect, inventory, or remove any of said plant protective devices or equipment, and to inspect the premises with respect to compliance with all regulations and requirements concerning plant protection, safety, and security including any recommendations made by the appropriate Department of the Army personnel.

§ 597.150–2 Marine risk.

The following clause may be used in contracts for chartering vessels for coastal, harbor, inland water, or similar services—

MARINE RISK (FEBRUARY 1965)

The owner shall assume all marine risks of whatever nature or kind, including all risks or liability for breach of law or statutes or for damage caused to other vessels, persons, or property, except as otherwise provided herein. When official storm warnings have

*If desired an additional proviso may be added, reading substantially as follows:

Provided further that no reimbursement of the cost of any such installation or pay of any such personnel is being made to the Contractor by other means.

been issued or weather and water or other conditions render an operation unusually hazardous and the owner or master protests in writing to the Contracting Officer against undertaking the operation but thereafter the Contracting Officer orders him to perform the operation and he undertakes to do so and the vessel is damaged or lost as the proximate result of the unusual hazard protested against and not of the negligence of the owner, master, or crew, the Government shall, at its discretion, repair the damage to the vessel or reimburse the owner for the cost of such repairs or for the loss of the vessel, to the extent not covered by insurance and within the limit of funds against which indemnification by the Government to the Contractors for such loss or damage may lawfully be charged, but in no case in excess of the value of the vessel immediately preceding the incident causing the damage or loss and shall, for a period not to exceed _____ days (insert the number of days estimated to repair or replace the vessel), reimburse the owner, within the funds limitation as indicated above, for the actual expenses of stand-by time, as determined by the Contracting Officer. The Contractor shall file a report of such damage or loss within 3 working days after date of the incident or the date of the vessel's return to port, whichever is the later date. Failure to file such a report within the time specified shall constitute a waiver of the right to indemnification based on liability of the Government for the damage to or loss of the vessel. Failure to agree to any findings or determinations made by the Contracting Officer hereunder shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

§ 597.150–3 Clinical study of investigational drugs.

All contracts awarded pursuant to AR 40–7 under which drugs are to be clinically investigated shall contain the following clause—

CLINICAL STUDY OF INVESTIGATIONAL DRUGS (NOVEMBER 1966)

(a) The Contractor, before undertaking to conduct either the clinical pharmacology or clinical trials of an investigational drug under a Department of the Army contract, shall submit for the written approval of The Surgeon General, Department of the Army, a signed completed application and three copies to The Surgeon General, Attention: Chairman, Army Investigational Drug Review Board, Department of the Army, Washington, D.C. 20315, using the following format:

Investigator's statement:

I. Background data.

A. Name of investigator.

B. Date of request.

C. Name or other clear identification of drug.

D. Name of manufacturer or other source of drug.

E. Qualifications of investigator in detail or by reference to details already on file in Army records.

F. Name and address of facility or facilities where investigations will be conducted.

G. All known relevant information about past use or pertinent reference thereto available to both the investigator and the drug supplier, including all preclinical data, and all other information justifying the clinical investigation (i.e., the safety and rationale of the proposed study).

II. Plan and Conduct of Proposed Clinical Investigation.

A. Specific purpose and military need for or urgency of proposed clinical investigation.

B. Approximate number of subjects, their age, sex, condition, and other pertinent information relevant to the conditions of the investigation.

C. Number of subjects to be employed as controls (if any) and same information as in B above for such controls.

D. An outline of the phases of the investigation already planned either in detail or by reference to details already on file in Army records. This outline may include reasonable alternates and variations, and will be supplemented or amended when any significant change in direction or scope of the investigation is undertaken.

E. Description or copies of forms used to record data.

(b) The Contractor shall insure that each of its investigators who conduct either the clinical pharmacology or clinical trials of an investigational drug will maintain a record of clinical investigation separate from the patient's clinical record. This record of clinical investigation will include, minimally, a list of patients receiving the investigational drug; the name, lot number, date, and quantity of investigational drug prescribed; case histories; the details of clinical observations, tests, and laboratory procedures carried out on each subject before, during, and after administration of the drug in question.

(c) The Contractor shall also insure that either its responsible investigator or a responsible individual designated by him for the purpose will maintain a complete record of each investigational drug used under a DA contract for at least 3 years after completion of the investigational drug study. This record will include the following information:

1. Name of drug.
2. Manufacturer, or other source of drug.
3. Amount and date received.
4. Expiration date, if any.
5. Lot or control number.
6. Date of authority to use.
7. Names of individuals authorized to prescribe the drug.
8. Names of prescribing physician or dentist.
9. Date on which use of the drug is terminated, if applicable.
10. Date on which use of the drug was approved for general use as a safe and efficacious drug, if during course of investigation.

(d) The Contractor shall submit progress reports to The Surgeon General, Attention: Chairman, AIDRB, at least once annually, and shall submit a final report on termination of the investigaton. In addition the Contractor shall promptly report to the AIDRB any unusual or important observations occurring during the course of the investigational drug study, particularly if they involve any adverse effect that may be regarded as caused by the new drug; if the adverse effect is alarming, it shall be reported to the AIDRB immediately.

(e) Special Conditions Applicable to Clinical Investigation of New Drugs: The contractor shall insure that the investigational drug is administered to subjects only under the personal supervision of the responsible investigator or a qualified person to whom the responsible investigator has delegated this authority. The Contractor shall also insure that all subjects participating in the investigation or their representatives are fully informed and understand that the new drug is being used for investigational purposes. The written consent of the subjects, or their representatives shall be obtained except where this is not feasible or, in the responsible investigator's professional judgment, is contrary to the best interests of the subject. When the purpose of administering an investigational drug is not to benefit the individual to whom it is administered, final approval for the use of volunteer subjects shall be obtained as provided in paragraph 6, AR 70–25. Benefit to the individual is defined as the administration of a drug to an individual expected to result in the diagnosis, mitigation, treatment, cure, or prevention of disease or injury of the same individual.

Subpart B—Clauses for Cost-Reimbursement Type Supply Contracts

§ 597.203 Required clauses.

§ 597.203–1 Definitions.

Instructions in § 597.103–1 apply.

§ 597.203–2 Changes.

Instructions in § 597.103–2 apply.

§ 597.203–5 Inspection of supplies and correction of defects.

Appropriate language to accomplish the requirements in § 597.103–5 shall be included in solicitations and resultant contracts.

§ 597.203–6 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.203–12 Disputes.

Instructions in § 597.103–12 apply.

§ 597.205 Additional clauses.

The clauses set forth in § 7.205 of this title shall be used in cost-reimbursement type supply contracts in accordance with the instructions of heads of procuring activities.

§ 597.250 Medical services at Government-owned contractor-operated installations.

The following clauses shall be included in all contracts at Government-owned contractor-operated installations—

MEDICAL SERVICES (FEBRUARY 1965)

The Contractor shall provide medical services, as a minimum, of a scope which shall include (i) treatment of on-the-job illnesses and dental conditions requiring emergency attention, (ii) preemployment examinations, and (iii) preventive programs related to health.

Subpart C—Clauses for Fixed-Price Research and Development Contracts

§ 597.302 Required clauses.

§ 597.302–1 Definitions.

Instructions in § 597.103–1 apply.

§ 597.302–4 Inspection.

Appropriate language to accomplish the requirements in § 597.103–5 shall be included in solicitations and resultant contracts.

§ 597.302–5 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.302–11 Disputes.

Instructions in § 597.103–12 apply.

§ 597.304 Additional clauses.

Except as prescribed herein the clauses set forth in § 7.304 of this title shall be used in fixed-price research and development contract in accordance with the instructions of heads of procuring activities.

§ 597.304–1 Changes.

Instructions in § 597.103–2 apply.

Subpart D—Clauses for Cost-Reimbursement Type Research and Development Contracts

§ 597.402 Required clauses.

§ 597.402–1 Definitions.

Instructions in § 597.103–1 apply.

§ 597.402–5 Inspection and correction of defects.

Appropriate language to accomplish the requirements in § 597.103–5 shall be included in solicitations and resultant contracts.

§ 597.402–6 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.402–11 Disputes.

Instructions in § 597.103–12 apply.

§ 597.404 Additional clauses.

Except as prescribed herein, the clauses set forth in § 7.404 of this title shall be used in cost-reimbursement type research and development contracts in accordance with the instructions of heads of procuring activities.

§ 597.404–1 Changes.

Instructions in § 597.103–2 apply.

§ 597.450 Medical services at Government-owned contractor-operated installations.

Include the clause in § 597.250 in accordance with instructions therein.

Subpart E—[Reserved]

Subpart F—Clauses for Construction and Architect-Engineer Contracts

§ 597.602 Required clauses for fixed-price construction contracts.

§ 597.602–3 Changes.

Instructions in § 597.103–2 apply.

§ 597.602–6 Disputes.

Instructions in § 597.103–12 apply.

§ 597.602–8 Assignment of claims.

Instructions in § 597.103–8 except for paragraph (a) apply.

§ 597.602–10 Contractor inspection system.

Appropriate language to accomplish the requirements in § 597.103–5 shall be included in solicitations and resultant contracts.

§ 597.605 Required clauses for cost-reimbursement type construction contracts.

§ 597.605–2 Changes.

Instructions in § 597.103–2 apply.

§ 597.605–17 Disputes.

Instructions in § 597.103–12 apply.

§ 597.605–31 Assignment of claims.

Instructions in § 597.103–8 except for paragraph (a) apply.

§ 597.607 Required clauses for lump sum architect-engineer contracts.

§ 597.607–4 Disputes.

Instructions in § 597.103–12 apply.

§ 597.607–10 Assignment of claims.

Instructions in § 597.103–8 except for paragraph (a) apply.

Subpart G—Clauses for Facilities Contracts

§ 597.702 Required clauses for consolidated facilities contracts.

§ 597.702–1 Definitions.

Instructions in § 597.103–1 apply.

§ 597.702–4 Changes.

Instructions in § 597.103–2 apply.

§ 597.702–25 Period of this contract.

Requests for authorization to provide for a period of more than 5 years shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this chapter.

§ 597.702–28 Disputes.

Instructions in § 597.103–12 apply.

§ 597.702–37 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.703 Required clauses for facilities acquisition contracts.

§ 597.703–1 Definitions.

Instructions in § 597.103–1 apply.

§ 597.703–4 Changes.

Instructions in § 597.103–2 apply.

§ 597.703–20 Disputes.

Instructions in § 597.103–12 apply.

§ 597.703–29 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.704 Required clauses for facilities use contracts.

§ 597.704–1 Definitions.

Instructions in § 597.103–1 apply.

§ 597.704–18 Period of this contract.

Instructions in § 597.702–25 apply.

§ 597.704–21 Disputes.

Instructions in § 597.103–12 apply.

§ 597.704–23 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.706 Facilities use contracts with nonprofit educational institutions.

§ 597.706–3 Definitions.

Instructions in § 597.103–1 apply.

§ 597.706–16 Period of this contract.

Instructions in § 597.702–25 apply.

§ 597.706–18 Disputes.

Instructions in § 597.103–12 apply.

Subpart H—[Reserved]

Subpart I—Clauses for Time and Material and Labor Hour Contracts

§ 597.901 Required clauses.

§ 597.901–1 Definitions.

Instructions in § 597.103–1 apply.

§ 597.901–2 Changes.

Instructions in § 597.103–2 apply.

§ 597.901–7 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.901–8 Disputes.

Instructions in § 597.103–12 apply.

§ 597.901–21 Inspection and correction of defects.

Appropriate language to accomplish the requirements in § 597.103–5 shall be included in solicitations and resultant contracts.

Subpart J—Clauses for Stevedoring Contracts

§ 597.1002 Required clauses.

§ 597.1002–1 Definitions.

Instructions in § 597.103–1 apply.

§ 597.1002–6 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.1002–9 Disputes.

Instructions in § 597.103–12 apply.

Subpart K—[Reserved]

Subpart L—Clauses for Mortuary Services Contracts

§ 597.1201 Required clauses for other than port of entry requirements contracts.

§ 597.1201–4 Specifications.

The specifications referenced in § 7.1201–4 of this title are contained in appendix IV, AR 638–40.

§ 597.1201–16 Definitions.

Instructions in § 597.103–1 apply.

§ 597.1201–18 Assignment of claims.

Instructions in § 597.103–8 apply.

§ 597.1201–19 Disputes.

Instructions in § 597.103–12 apply.

Subpart M—[Reserved]

Subpart N—[Reserved]

Subpart O—[Reserved]

Subpart P—Contracts for Preparation of Personal Property for Shipment, Government Storage and Performing Intracity or Intra-Area Movement

§ 597.1650 Placement of calls under contracts.

(a) Oral calls may be placed with contractors inasmuch as the exact weight of the shipment involved, services to be performed, and the cost thereof can not be predetermined so as to permit the issuance of a written delivery order before services are performed.

(b) Ordering officers may be appointed pursuant to § 591.452 of this chapter to place calls as specified in paragraph (a) of this section.

(c) DD Form 1155 is not required either to confirm an oral call or to serve as a payment voucher, provided the contracting or ordering officer who made

the oral call places a certificate of performance (see par. 3-9e, AR 37-107) on all copies of the contractor's invoice and signs the certificate on the original thereof.

(d) If a contractor uses Standard Form 1034 as its invoice, the certificate of performance shall be placed on all copies thereof and the original shall be signed by the contracting or ordering officer who made the oral call.

(e) If a contractor has Standard Form 1034 printed at its own expense for its own use with repetitive data, such as contract number and date and payee's name and address, printed thereon, the contracting officer may request the contractor to have the certificate of performance printed on the face thereof, provided the contractor agrees to do so at no expense to the Government.

(f) Under no circumstances shall a contractor be required to use Standard Form 1034 as its invoice in lieu of its own invoice form.

§ 597.1651 Commercial warehousing and related services.

(a) AR 743-455 governs the commercial warehousing and related services for household goods for military and civilian personnel (see § 606.551 of this chapter).

(b) Ordering officers may be appointed pursuant to § 591.452 of this chapter to place service orders under such contracts. Instructions in AR 743-455 shall be followed in placing service orders and ordering officers shall not be authorized to change terms and conditions of contracts in any way.

PART 598—TERMINATION OF CONTRACTS

14. Part 598 is revised to read as follows:

Subpart A—[Reserved]

Subpart B—General Principles Applicable to the Settlement of Fixed-Price Type Contracts Terminated for Convenience and to the Settlement of All Terminated Cost-Reimbursement Type Contracts

Sec.

Subpart C—Additional Principles Applicable to the Settlement of Terminated Fixed-Price Contracts

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Termination for Default

AUTHORITY: The provisions of this Part 598 issued under secs. 2301-2314, 3012, 70A Stat. 127-133, 157; 10 U.S.C. 2301-2314, 3012.

Subpart A—[Reserved]

Subpart B—General Principles Applicable to the Settlement of Fixed-Price Type Contracts Terminated for Convenience and to the Settlement of All Terminated Cost-Reimbursement Type Contracts

§ 598.201 Authority of contracting officers.

(a) Procuring contracting officers shall exercise the authority to terminate a contract for convenience of the Government only after proper authorization and instructions from the activity which requested the contract to be established.

(b) Contracting officers shall not terminate contracts for convenience if the contractor is in unexcusable default and the Government has a legal right to terminate for default, even though the Government's requirements for performance no longer exist. This prohibition shall not preclude a no-cost termination settlement agreement as provided in § 8.602-4(c) of this title.

(c) Termination of contracts awarded as a result of a MIPR shall be in accordance with § 5.1112 of this title.

§ 598.202 Prior clearance of significant contract terminations.

Reports Control Symbol SAOSA-62 has been assigned the reporting requirement in § 8.202 of this title for purchasing offices within the Department of the Army.

§ 598.212 Review and approval of proposed settlements.

§ 598.212-4 Action by Board.

(a) All actions by a Settlement Review Board shall be taken at duly constituted meetings of the Board. The written opinion of the Board setting forth its approval or disapproval of a proposed settlement shall be signed by each Board member present. The written opinion shall not be a repetition of the contracting officer's memorandum but shall contain all pertinent facts which prompted the Board's approval or disapproval.

(b) A proposed settlement which was reached by mutual agreement, if disapproved by the Board, shall be returned to the contracting officer for further negotiation within the framework of the Board's opinion. Upon conclusion of further negotiation, the new proposed settlement shall be submitted to the Board for further consideration.

(c) A proposed settlement which resulted from the contracting officer's redetermination, if disapproved by the Board, shall be returned to the contracting officer for redetermination or negotiation and resubmission to the Board.

(d) Except as provided in § 8.212-4 of this title, the contracting officer may not proceed with a proposed settlement until approval of the Settlement Review Board has been obtained.

Subpart C—Additional Principles Applicable to the Settlement of Terminated Fixed-Price Contracts

§ 598.307 Settlement proposals.

§ 598.307-2 Bases for settlement proposals.

Requests for approval of the Secretary of the Army for the use of bases other than inventory or total cost in a termination claim shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Termination for Default

§ 598.602 Termination of fixed-price supply contracts for default.

§ 598.602-3 Procedure for default.

(a) Contracts which involve outstanding guaranteed loans, progress payments, or advance payments, except where the contractor is in bankruptcy, shall be terminated for default only after the procuring activity has coordinated the action with the U.S. Army Materiel Command, the U.S. Continental Army Command, or the Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics), as applicable. In addition, prior to termination, all such cases except those involving bankruptcy shall be coordinated with the Director of Contract Financing, Office of the Comptroller of the Army (the addressee in § 591.150(b)(5) of this chapter) who shall coordinate when necessary with the contract financing offices of other military departments. Cases forwarded shall include the following data—

(1) Contract number, item, and dollar value;

(2) Government financing outstanding;

(3) Statement as to probable jeopardy to repayment of loans in event of default;

(4) Alternative actions in lieu of default;

(5) Status of deliveries, i.e. scheduled versus actual;

(6) Production problems, if any, and Government assistance furnished to resolve them;

(7) Statement as to whether the contractor was certified by the Small Business Administration;

(8) Date of report "Contractors in Difficulty Authorized Guaranteed Loans, Progress Payments, or Advance Payments," Reports Control Symbol OSD-1477 (see § 163.30 of this title);

(9) Other pertinent information to insure clear understanding of the case; and

(10) Recommendation of the head of procuring activity.

(b) Contracts involving a contractor to whom a certificate of competency was issued by the Small Business Administration, or to whom loans were made with that agency's participation, shall not be

terminated for default without prior written approval of the head of procuring activity. Copies of notices of intent to terminate such a contract for default shall be furnished the nearest Regional Office of the Small Business Administration after coordination with the Small Business and Labor Surplus Advisor serving the purchasing office.

(c) When considering a termination fo rdefault pursuant to subparagraph (a)(f) of the Default clause (§ 8.707 of this title), contracting officers should come to a decision within a reasonable time and should avoid actions which could be construed as waiving the delivery requirements. In a number of cases before the Armed Services Board of Contract Appeals (ASBCA) where the decision to terminate for default was unreasonably delayed or where inconsistent actions occurred, that Board invoked what is known as the doctrine of "waiver of due date" and converted default terminations into terminations for convenience pursuant to subparagraph (e) of the Default clause. To avoid this, contracting officers should seek legal advice at an early point in the decision making process.

PART 600—BONDS, INSURANCE, AND INDEMNIFICATION

15. Section 600.201–50 is revised, and Subpart D is revoked, as follows:

§ 600.201–50 Grant, extension, modification, and termination of authority to qualify as a corporate surety.

(a) From time to time the Treasury Department issues supplements to TD Circular 570 notifying all Federal agencies of the grant, extension, modification, and termination of authority of a specified company to qualify as a surety on Federal bonds. Contents of these supplements are published in Department of the Army Circulars in the 715–2 series.

(b) Upon receipt of notification of the termination of a company's authority to qualify as a surety on Federal bonds, the Contracting Officer shall examine each uncompleted bonded contract and shall require any affected Contractor to secure new bonds with acceptable surety in lieu of bonds executed by the surety company whose authority has been terminated. The obtaining of new bonds in such cases shall not relieve the original surety of liability but is necessary to insure adequate bond protection. New bonds so obtained shall be promptly forwarded for review in accordance with § 600.112.

Subpart D—Insurance Under Fixed-Price Contracts [Revoked]

PART 601—TAXES

16. Part 601 is revised to read as follows:

Sec.
601.000 Resolution of tax problems.
601.050 Implementation of part.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—State and Local Taxes

Sec.
601.350 Colorado sales and use tax—construction contracts.
601.351 Indiana gross income tax.
601.352 Iowa sales and use tax—construction contracts.
601.353 Nebraska sales and use tax—construction contracts.

Subpart D—[Reserved]

Subpart E—Tax Exemption Forms

601.502 State and local taxes.
601.502–1 Types of evidence of exemption.
601.502–50 Tax inclusive purchases.

AUTHORITY: The provisions of this Part 601 issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

§ 601.000 Resolution of tax problems.

(a) Actual or anticipated tax problems which cannot readily be solved by reference to Part II of this title shall be forwarded to the addressee in § 591.150(b)(6) of this chapter. Direct communication is authorized if the time by which a solution to a tax problem is required is so short that communication through channels would be inadequate.

(b) Tax problems forwarded shall be accompanied by—

(1) A comprehensive statement of pertinent facts, including documents and correspondence pertinent thereto;

(2) A copy of the contract or pertinent portions thereof;

(3) A review of the legal and factual issues involved;

(4) A statement of the effect of the tax problem on procurement policies and procedures, if appropriate; and

(5) The comments and recommendations of the contracting officer and of each successive echelon of command through which the correspondence passes.

§ 601.050 Implementation of part.

No directive, regulation, instruction, or procedure concerning Federal, State, or local taxes in relation to Army procurement functions shall be published by any agency, command, or office of the Department of the Army without prior approval of the Assistant Secretary of the Army (Installations and Logistics) obtained through the addressee in § 591.150(b)(6) of this chapter. If approval is obtained for publishing such instructions, the requirements in § 591.108 of this chapter shall apply.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—State and Local Taxes

§ 601.350 Colorado sales and use tax—construction contracts.

(a) A specific exemption from Colorado sales and use tax is available with respect to materials having a value of $2,500 or more furnished under contract to a Government agency and incorporated into a structure by a prime contractor or subcontractor.

(b) Tax exemption certificates shall be issued to contractors or subcontractors upon their personal application therefor to the Department of Revenue, State of Colorado, State Capitol, Denver, Colo. 80203. The contractor or subcontractor shall be required to furnish—

(1) The contract number, date, and amount; and

(2) The proposed date of completion.

(c) Solicitations for construction contracts which may reasonably be expected to involve purchases of materials of $2,500 or more shall contain—

(1) A notification concerning the availability of this exemption;

(2) A requirement that Colorado sales and use taxes be excluded from prices; and

(3) The method by which contractors or subcontractors may obtain tax exemption certificates.

§ 601.351 Indiana gross income tax.

(a) The Indiana gross income tax is applicable to gross receipts received by a Government contractor under a contract—

(1) For services performed in Indiana; or

(2) For supplies produced in Indiana and delivered to the Government in Indiana (including contracts requiring delivery f.o.b. carrier's equipment, wharf, or freight station in Indiana for shipment on a Government bill of lading to destinations outside Indiana).

(b) The tax does not apply to gross receipts received by a Government contractor under a contract for supplies produced in Indiana and delivered to the Government at a destination outside Indiana if—

(1) The contract provides that title to the supplies shall vest in the Government at destination; and

(2) Shipment is made on a commercial bill of lading or a commercial bill of lading convertible to a Government bill of lading at destination.

§ 601.352 Iowa sales and use tax—construction contracts.

(a) Government agencies may obtain from the Iowa State Tax Commission refunds of sales and use tax paid by their construction contractors with respect to goods, wares, or merchandise which becomes an integral part of a construction project.

(b) The contracting officer shall obtain from the contractor the statement required by section 422.45(7a), Iowa Code Annotated, and shall file an application for refund with the Iowa State Tax Commission within 60 days after final settlement as required by section 422.45(7b), Iowa Code Annotated.

(c) Solicitations for construction projects to be performed in Iowa shall contain a provision that the Contractor will be required to furnish the Contracting Officer with the statements required by section 422.45(7a), Iowa Code Annotated.

§ 601.353 Nebraska sales and use tax—construction contracts.

(a) A construction contractor or subcontractor may purchase materials free

of the Nebraska sales and use tax if the contract or subcontract provides separate amounts applicable to the performance of services and the furnishing of materials.

(b) Solicitations for fixed-price construction contracts of $10,000 or more to be performed in Nebraska shall contain the following statements—

(1) The contract to be awarded will be a construction contract which separately states amounts applicable to the performance of the services and the furnishing of materials as contemplated in section 2(3) of the Nebraska Revenue Act of 1967 and Rule TC-1-17 of the Nebraska State Tax Commissioner, dated June 1, 1967. Exemption from the Nebraska sales and use tax on material to be incorporated by the Contractor and his subcontractors into the structure or improvement to real estate may be secured under the terms of the cited law and regulations. The successful bidder to whom this contract is awarded may execute and deliver a resale certificate to his suppliers for such materials.

(2) Prior to award of a contract, the successful bidder shall furnish a breakdown to be incorporated into the contract separately pricing (i) materials to be incorporated into the structure or improvement to real estate, (ii) services and other obligations of the construction contract, and (iii) total contract price.

(c) The following clause shall be included in solicitations for fixed-price construction contracts of $10,000 or more to be performed in Nebraska—

NEBRASKA SALES AND USE TAX (MAY 1968)

(a) This contract is a construction contract which contains separate amounts applicable to the performance of the services and the furnishing of the materials as defined in section 2(3) of the Nebraska Revenue Act of 1967. Notwithstanding any other provisions of this contract, the contract price does not include any amount for Nebraska sales and use tax on materials to be incorporated by the Contractor or any Subcontractor into the structure or improvement to real estate. The Contracting Officer shall furnish to the Contractor any tax exemption certificate which may be required.

(b) For the purpose of complying with the requirements of the Nebraska Revenue Act of 1967 and the rules of the State Tax Commissioner, the Contractor, pursuant to the requirements of the solicitation, has furnished prior to contract award a breakdown separately pricing (1) materials to be incorporated into the structure or improvement to real estate, (2) services and other obligations of the construction contract, and (3) total contract price. This breakdown is for the sole purpose of complying with the requirements of the Nebraska Revenue Act of 1967 with regard to separate pricing of services and materials and has no other contractual significance.

(c) Any subcontracts awarded hereunder shall also contain separate amounts applicable to the performance of services and the furnishing of materials.

(d) At the time the contract is prepared for signature, a statement substantially as follows shall be included in the Schedule—

It is understood and agreed that the contract price of $_____ is comprised of $_____ for materials and $_____ for services and other obligations.

Subpart D—[Reserved]

Subpart E—Tax Exemption Forms

§ 601.502 State and local taxes.

§ 601.502–1 Types of evidence of exemption.

(a) Unless a different type of evidence of exemption is required by the taxing jurisdiction, Standard Form 1094 shall be used where exemptions, adjustment, or refunds of State and local taxes are allowed on commodities or services purchased for the exclusive use of the United States.

(b) Heads of procuring activities and contracting officers and their representatives are authorized to furnish evidence of exemption from State and local taxes.

§ 601.502–50 Tax inclusive purchases.

(a) When a State or local tax attaches at the time of sale to the United States, the legal incidence of the tax appears to be on the United States, and if a vendor refuses to sell at a price exclusive of the tax, Standard Form 1094 shall be used to obtain a record of the transaction for use by the Government in billing the taxing authority for refund of the tax.

(b) Standard Form 1094 shall be executed and delivered to the finance and accounting officer to whose accounts the vouchers in the transaction pertain. The certificate of the vendor shall be obtained on each Standard Form 1094 or receipt issued for the transaction. The payment voucher number shall be noted on the Standard Form 1094 and the serial number of the Standard Form 1094 shall be shown on the payment voucher.

(c) Finance and accounting officers shall forward the Standard Form 1094 to the Finance and Accounts Office, U.S. Army, Attention: Accounting Branch, Second and R Streets NW., Washington, D.C. 20315, which office shall bill the State or local taxing authority for refund of the tax paid. If that office is unable to obtain a refund of the tax, it shall refer the matter to the addressee in § 601.000 for determination whether it is appropriate to forward the file to the General Accounting Office for collection.

PART 602—LABOR

17. Part 602 is revised to read as follows:

Sec.

AUTHORITY: The provisions of this Part 602 issued under secs. 2301–2314, 3012, 70A Stat. 126–133, 157; 10 U.S.C. 2301–2314, 3012.

§ 602.050 Definition.

As used in this part, the term "Labor Advisor" means the Labor Advisor, Office of the Assistant Secretary of the Army (Installations and Logistics), Department of the Army, Washington, D.C. 20310.

§ 602.051 Implementation.

So that there is maximum uniformity in application of basic labor policies within the Department of the Army, no implementation of this part shall be issued by any agency, command, or office of the Department of the Army without prior approval of the Labor Advisor, except as may be specifically authorized herein. If approval is obtained for implementing this part, the requirements in § 591.108 of this chapter shall apply.

Subpart A—Basic Labor Policies

§ 602.101 Labor relations.

§ 602.101–1 General.

(a) All problems arising out of the labor relations of Government contractors vitally affect procurement and are an essential part of procurement responsibility. Heads of procuring activities are encouraged to seek the assistance of the Labor Advisor (see § 602.050) in the disposition of these problems.

(b) A head of procuring activity or his designee is authorized to contact the appropriate regional office of the Federal Mediation and Conciliation Service, National Mediation Board, or National Labor Relations Board for information regarding the status of mediation proceedings, the nature of the dispute, or related matters of concern. However, in cases where administration of a contract has been transferred to the Defense Contract Administration Service (DCAS),

requests for such information shall be made only upon the local DCAS regional office.

(c) Only the Labor Advisor is authorized to contact the national offices of the agencies named in paragraph (b) of this section. All inquiries for the national offices shall be forwarded to the Labor Advisor.

(d) Management and Labor representatives shall not be contacted with reference to matters related to disputes. Department of the Army personnel shall not volunteer information to nor answer requests from representatives of labor or management related to work stoppages or disputes without prior clearance from the Labor Advisor. Such clearances may be obtained by telephone when necessary: *Provided*, That written confirmation is made as soon thereafter as possible.

§ 602.101–3 Reporting of labor disputes.

(a) The report of labor disputes prescribed in § 12.101–3 of this title to be submitted on DD Form 1507, Work Stoppage Report, has been assigned Reports Control Symbol SAOSA–40 for Department of the Army purchasing offices.

(b) In cases of extreme urgency Contracting Officers shall make initial and supplemental reports by telephone or other informal means to the Labor Advisor. Information informally submitted shall be confirmed by DD Form 1507 as soon thereafter as possible. In situations where possible serious impact may ensue, direct communication is authorized between purchasing office, procuring activity representatives and the Labor Advisor.

§ 602.101–4 Impact of labor disputes on defense programs.

In addition to the information required by § 12.101–4(b) of this title, the head of procuring activity shall include in his findings the following—

(a) The overall production schedule of each critical item by week or month, as appropriate;

(b) The effect on end-item production schedules of a work stoppage lasting 15, 30, 60, and 90 days;

(c) A statement as to whether the production of each item concerned was on schedule prior to the work stoppage;

(d) The feasibility and leadtime required to bring alternate sources into production; and

(e) Any other pertinent information which will assist in clearly presenting the impact on production of other military items, stock position of items involved, effect on military operations, and consumption rates for items affected where appropriate.

§ 602.101–5 Movement and removal of items from facilities affected by work stoppage.

(a) Prior to taking actions pursuant to § 12.101–5(b) of this title to effect a removal from plants on strike, the Contracting Officer shall submit a request for removal to the Labor Advisor. The Labor Advisor shall solicit an appraisal from the national office of the Federal Mediation and Conciliation Service as to how such action would affect negotiations. The ultimate decision concerning removal shall be made by the Assistant Secretary of the Army (Installations and Logistics).

(b) Requests for removal shall be transmitted by rapid means and direct communication with the Labor Advisor is authorized. Requests for removal shall contain the following—

(1) The end item involved;

(2) A statement as to the importance of the project concerned;

(3) The location of items or material to be removed;

(4) The number of items or amount of material to be removed;

(5) An estimate of the length of time necessary to complete the removal;

(6) The purchase order or contract number; and

(7) The address of the company or agency to which the removed items are to be delivered.

§ 602.101–50 Representatives of labor organizations entering Department of the Army installations and activities.

(a) Whenever representatives of labor organizations request permission to enter military installations or activities of the Department of the Army on which private contractors are engaged in contract work for the purpose of conducting union business during working hours in connection with the contract between the Government and the Contractor on which union members are employees, the installation/activity commander may admit such representatives provided that—

(1) The presence and activities of the labor representatives will not interfere with the progress of the contract work involved; and

(2) The entry of the labor representatives to the installation or activity will not violate pertinent safety or security regulations.

(b) Labor representatives are not authorized to engage in organizing activities, collective bargaining discussions, or other matters not directly connected with the Government contract on military installations or activities. The installation/activity commander may, however, authorize labor representatives to enter upon the installation or activity for the purpose of distributing organizational literature and authorization cards to private Contractors' employees provided such distribution does not—

(1) Occur in working areas or during working times of employees concerned;

(2) Interfere with contract performance;

(3) Interfere with the efficient operation of the installation or activity; or

(4) Violate pertinent safety or security regulations.

(c) The determination as to who is an appropriate labor representative shall be made by the installation/activity commander after consultation with his Labor Advisor or Judge Advocate. Nothing in this section, however, shall be construed to prohibit Contractors' employees from distributing organizational literature or authorization cards on installation/activity property where such distribution does not violate the conditions in paragraph (b) of this section.

(d) Business offices or desk space for labor organizations for solicitation of membership among Contractors' employees, collection of dues, or other business of the labor organization not directly connected with the contract work shall not be permitted on the installation or activity except for the routine functions of the working steward whose union duties are incidental to his assigned job.

(e) If an installation/activity commander denies entry to a labor representative for any reason, he shall immediately notify the Labor Advisor (see § 602.050) giving reasons for denial, including the names and addresses of representatives denied entry and the union affiliation of the representatives if known.

(f) The above provisions concerning organization of private Contractors' employees shall be distinguished from those involving organization of Federal civilian employees. For the functions, duties, and obligations of an installation/activity commander regarding Federal civilian employee unions, see Civilian Personnel Regulation (CPR) 711.

§ 602.101–51 Affect of work stoppage on award of new contract.

Prior to award of a new contract, or increasing quantities under an existing contract, to a contractor whose plant is either on strike or is confronted with an imminent strike, the contracting officer or, when appropriate, the DCAS regional representative, shall solicit an apprisal from the regional Federal Mediation and Conciliation Service office as to how such action would affect negotiations. In the event the Federal Mediation and Conciliation Service is not participating in the negotiations, guidance shall be sought from the Labor Advisor. In support of the policy of freedom of negotiations and impartiality, personnel shall avoid a course of action which would either disturb that freedom or be construed as giving support or assistance to either party to the labor dispute.

§ 602.102 Overtime.

§ 602.102–4 Approval of overtime premiums in certain cost-reimbursement type contracts.

The following individuals are designated, without power of redesignation, to grant approvals described in § 12.102–4 of this title—

(a) Each head of procuring activity, his deputy, and principal assistant responsible for procurement;

(b) Each project manager;

(c) The Chief of Research and Development;

(d) The Director of Research and Development, U.S. Army Materiel Command;

(e) The Director of Army Research and Chief, Research Support Division, Office of the Director of Army Research; and

(f) Such others as may be specifically designated from time to time by the Director of Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics).

§ 602.103 Federal and State labor requirements.

§ 602.103–1 General.

(a) Sections 602.103—602.103–2 are applicable to all Government contractors within the United States and its possessions, including contractors operating Government-owned facilities irrespective of whether such facilities are located on private or Government property.

(b) The term "State" as used in §§ 602.103—602.103–2 includes the District of Columbia and all political subdivisions of the 50 States.

§ 602.103–2 Applications for relaxation of requirements.

A head of procuring activity may, consistent with limitations of security, furnish information to the appropriate State official, upon request, as to the fact that an application for relaxation of State labor standards filed with him relates to the execution of a contract with such agency in pursuance of a military procurement program. Such information shall not extend to support the application unless proper authorization under § 12.103–2(b) of this title has been obtained.

§ 602.105 Location allowances at unfavorable sites.

§ 602.105–3 Procedures.

(a) Determinations that conditions at a site justify location allowances shall be made in writing by individuals authorized to approve overtime (see § 602.102–4). Copies of the determinations shall be furnished to the cognizant contracting officer.

(b) Payments of location allowances, either as experienced costs or as an advance agreement (see § 15.107 of this title), may be approved by the contracting officer, provided that—

(1) The payments are reasonable in the light of criteria in § 12.105–2 of this title; and

(2) A written determination has been obtained in accordance with paragraph (a) of this section.

(c) The review required by § 12.105–3(a) of this title shall be scheduled and accomplished by the cognizant contracting officer whenever warranted by changes in conditions and circumstances, but in any case at least once each year.

(d) When disagreements on matters covered by this section occur between two or more purchasing offices under the jurisdiction of the Commanding General, U.S. Army Materiel Command, authority to resolve the dispute is vested in that commander. If a purchasing office of the U.S. Army Materiel Command is in disagreement with a purchasing office outside the jurisdiction of that command and a local agreement cannot be reached, the matter shall be forwarded for resolution to the addressee in § 591.150(b)(6) of this chapter. Disagreements between two or more purchasing offices not under the jurisdiction of the U.S. Army Materiel Command shall be handled in the same manner.

(e) Where two or more purchasing offices, one or more of which is not within the Department of the Army, have concurrent contracts at a single facility and the approval of location allowances by one such purchasing office is likely to affect the performance of, or payments in connection with, contracts of another such purchasing office, the purchasing office exercising jurisdiction over the facility shall coordinate with the other purchasing offices in applying the policy in § 12.105–2 of this title. If the purchasing offices do not agree on the application of the policy and the matter cannot be resolved by the cognizant head of procuring activity, the matter shall be forwarded to the addressee in § 591.150(b)(6) of this chapter for resolution.

(f) Where two or more facilities are so geographically located that determinations as to location allowances at one may affect the other, the purchasing offices involved shall coordinate in applying the policy in § 12.105–2 of this title. If agreement cannot be reached, the procedure in paragraph (d) or (e) of this section shall be used, as appropriate.

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Walsh-Healey Public Contracts Act

§ 602.604 Responsibilities of contracting officers.

Requests for determinations by the Department of Labor pursuant to § 12.604(a) of this title shall be forwarded through the cognizant head of procuring activity to the addressee in § 602.050. A determination by the Department of Labor that a bidder or offeror is a "manufacturer" or a "regular dealer" is conclusive. Such determination does not, however, relieve the contracting officer of his duty of determining a bidder's or offeror's responsibility pursuant to § 1.904 of this title.

§ 602.606 Procedure for obtaining exemptions with respect to stipulations required by the Act.

(a) Contracting officers shall insure that an application from a contractor for an exception under section 6 of the Act clearly states—

(1) The nature of the exception requested;

(2) The need for the exception; and

(3) Any action taken by the contractor to avoid the necessity for the exception.

(b) Contracting officers shall review each application as to—

(1) The urgency of the particular procurement;

(2) The relation of existing production schedules to Department of the Army requirements;

(3) The relation of present and past deliveries to production schedules;

(4) The extent to which labor supply is a limiting factor in production and the reasons therefor;

(5) The steps, if any, taken either by the contractor or by any Government agency to resolve the labor supply problem;

(6) The extent to which factors inherent in the production processes involved necessitate the requested exception; and

(7) The extent to which the productive capacity of the facility or facilities in question is being used for Army procurement.

(c) After reviewing the contractor's application, the contracting officer shall forward it through the cognizant head of procuring activity to the addressee in § 602.050 together with—

(1) A statement of pertinent data; and

(2) His findings and recommendations in the matter.

Subpart G—Fair Labor Standards Act of 1938

§ 602.701 Basic statute.

The Act is applicable within the United States, its territories and possessions, and to the Bermuda defense area leased to the United States in 1940. The provisions of section 6, relating to minimum wages, and section 7, relating to overtime compensation, do not apply to certain categories of employees enumerated in the Act nor under certain circumstances enumerated therein.

§ 602.702 Suits against Government contractors.

In the event of any legal action based upon the Act under a cost-reimbursement contract, which may result in claims for increased allowable costs against the Government, the contracting officer shall—

(a) Immediately require the Contractor to furnish him with a copy of all papers pertinent thereto; and

(b) Make an immediate report of the legal action direct to the addressee in § 591.150(b)(2) of this chapter (also see AR 27–45).

§ 602.750 Regulations of the Administrator of the Wage and Hour Division in the Department of Labor.

The Act provides that the Administrator in the Department of Labor shall by regulation define certain terms used in the Act and may grant certain exemptions from its provisions. These regulations should be consulted in these respects; however, no action should be taken without first obtaining legal counsel.

PART 603—GOVERNMENT PROPERTY

18. Part 603 is revised to read as follows:

Subpart A—General

Sec.
603.150 Sale, loan, or gift of certain property (10 U.S.C. 4506).
603.151 Loan of Government property acquired for research and development.

Subpart B—[Reserved]

Subpart C—Providing Government Production and Research Property to Contractors

603.301 Providing facilities.
603.302 Securing approval for facilities projects.
603.307 Providing Government production and research property when disposal is limited.

Subpart D—Use and Rental of Government Production and Research Property

603.404 Rental rates and policies applicable to the use of Government production and research property.
603.405 Non-Government use of industrial plant equipment (IPE).
603.406 Rent-free use of Government production and research property on work for foreign governments.

Subpart E—[Reserved]
Subpart F—[Reserved]

Subpart G—Contract Clauses

603.703 Government property clause for cost-reimbursement contracts.
603.704 Special tooling clause for fixed-price contracts.
603.750 Liability for Government property furnished for repair or other services.

Subpart H—Administrative Practices

603.801 Appointment of property administrators.
603.803 Records of Government property.
603.850 Audits of Government property records.
603.850–1 Responsibility for audits.
603.850–2 Reports of audit.
603.850–3 Records in unsatisfactory condition.

AUTHORITY: The provisions of this Part 603 issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

Subpart A—General

§ 603.150 Sale, loan, or gift of certain property (10 U.S.C. 4506).

(a) Heads of procuring activities are authorized to sell, lend, or give such samples, drawings, and manufacturing or other information as are considered in the interest of the national defense to—

(1) Any contractor for Army supplies under approved production plans; and

(2) Any person likely to manufacture or supply Army supplies under approved production plans.

(b) Such samples, drawings, and manufacturing or other information shall be sold, loaned, or given by appropriate written agreement.

(c) As a general rule, classified material shall not be sold, loaned, or given pursuant to the authority in this section.

(d) In determining whether to sell, loan, or give property under the authority in this section, consideration shall be given to—

(1) The current or probable future need of the Government for the property;

(2) The residual value of the property;

(3) Expenses incident to handling and storage of the property;

(4) The probable cost of reproduction of the property in the event of future procurement.

§ 603.151 Loan of Government equipment acquired for research and development.

Heads of procuring activities may authorize the loan of Government equipment acquired for research and development to a private industrial firm or educational institution for use in privately financed research and development programs; *Provided*, That—

(a) The programs are of interest to the Government;

(b) The results of the research will be furnished to the Government without additional cost; and

(c) The loan shall be reflected in a written agreement which sets forth the terms of the loan and the benefits to be derived by the Government therefrom.

Subpart B—[Reserved]

Subpart C—Providing Government Production and Research Property to Contractors

§ 603.301 Providing facilities.

Requests for a Secretarial determination pursuant to § 13.301(a)(3) of this title shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this chapter.

§ 603.302 Securing approval for facilities projects.

(a) Requests for approval of facilities projects involving expenditures of $1 million or more shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this chapter.

(b) PEMA and R&D financed facilities projects involving expenditures of less than $1 million shall be approved in accordance with AR 37–40 and AR 37–120.

(c) Reporting of facilities projects that involve real property transactions shall be accomplished in accordance with AR 405–10.

§ 603.307 Providing Government production and research property when disposal is limited.

Requests for Secretarial approval of an alternate provision pursuant to § 13.307(a)(3) of this title shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this title.

Subpart D—Use and Rental of Government Production and Research Property

§ 603.404 Rental rates and policies applicable to the use of Government production and research property.

Requests for authority to charge rent on other than time available for use basis shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this chapter and shall contain justification therefor.

§ 603.405 Non-Government use of industrial plant equipment (IPE).

Requests for approval for non-Government use of industrial plant equipment exceeding 25 percent shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this chapter.

§ 603.406 Rent-free use of Government production and research property on work for foreign governments.

A head of procuring activity cognizant of Government production and research property located in the United States, its possessions, or Puerto Rico; his deputy; or his principal assistant responsible for procurement, are authorized to approve requests for use of such property without charge on contracts of foreign governments or subcontracts thereunder, subject to the conditions enumerated in § 13.406 of this title.

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Contract Clauses

§ 603.703 Government property clause for cost-reimbursement contracts.

The clause in § 13.703 of this title shall be used in construction contracts under which the Department of the Army is to furnish the contractor material, special tooling, or such facilities as are authorized under § 13.303 of this title.

§ 603.704 Special tooling clause for fixed-price contracts.

The clause in § 13.704 of this title shall be used in negotiated construction contracts in accordance with § 13.305–2(d)(3) of this title.

§ 603.750 Liability for Government property furnished for repair or other services.

(a) The following clause shall be used in contracts for repair or servicing of Government property when such property is furnished to the contractor for that purpose, except when—

(1) The Ground and Flight Risk clause in § 10.404 of this title is required; or

(2) ASPR prescribes a different Liability or Loss or Damage clause to be used in specific contracts.

LIABILITY FOR GOVERNMENT PROPERTY FURNISHED FOR REPAIR OR OTHER SERVICES (MAY 1963)

(a) The provisions of this clause shall govern with respect to any Government property turned over to the Contractor to be repaired or to have services performed on it (referred to in this clause as "Government property furnished for servicing"), and such property shall not be considered "Government furnished property" within the meaning of any clause of the contract entitled "Government Property" or "Government Furnished Property." The Contractor shall maintain adequate records and procedures to insure that Government property furnished for servicing may be readily accounted for and identified at all times while in his custody or pos-

session or the custody or possession of any subcontractor.

(b) The Contractor shall be liable for any loss or destruction of or damage to the Government property furnished for servicing caused by the Contractor's failure to exercise such care and diligence as a reasonably prudent owner of similar property would exercise under similar circumstances. The Contractor shall not be liable for loss or destruction of, or damage to, Government property furnished for servicing resulting from any other cause except to the extent that such loss, destruction, or damage is covered by insurance (including self-insurance funds or reserves).

(c) In addition to any insurance (including self-insurance funds or reserves), affording protection in whole or in part against loss or destruction of, or damage to, such Government property carried by the Contractor on the date of this contract, the amount and coverage of which the Contractor hereby agrees to maintain, the Contractor agrees to obtain such additional insurance covering loss or destruction of or damage to Government property furnished to the Contractor for servicing as may, from time to time, be required by the Contracting Officer. The requirement for such additional insurance shall be effected under procedures established by the Changes clause of this contract.

(d) The Contractor shall hold the Government harmless and shall indemnify the Government against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the Government property furnished for servicing or arising from the presence of said property on the premises or property of the Contractor.

(b) If a substantial quantity of parts or materials are to be furnished the contractor or a significant amount of scrap may result from the repair or servicing, the appropriate Government property clause in Subpart G, Part 13 of this title shall be included in the contract. The contract schedule shall contain a statement that such parts, materials, or scrap shall be governed by the Government property clause contained in the contract.

Subpart H—Administrative Practices

§ 603.801 Appointment of property administrator.

The selection, appointment, and termination of appointment of property administrators shall be in accordance with § 591.406–50 of this chapter.

§ 603.803 Records of Government property.

(a) The head of procuring activity may name the head of one or more Department of the Army purchasing offices as his designee to approve exceptions to the policy of using a contractor's records of Government property as the official records.

(b) When a purchase order or contract does not exceed $5,000, the furnishing of jigs, patterns, fixtures, gages, and other manufacturing aids to a contractor from Government stocks to assist in the performance of work may be used as a basis for applying the exception in paragraph (a) of this section, provided the total cost of the aids furnished does not exceed $1,000.

(c) Policies and procedures governing the transfer of military property to contractors and accounting for such property in instances where the exception in paragraph (a) of this section is applied are contained in AR 735–71 and AR 735–72. AR 735–71 provides that, where Government property is lost or damaged and the property administrator is unable to exhibit conclusive proof of receipt of the items by a contractor, the property shall be accounted for on a Report of Survey (DD Form 200, Standard Form 361, or DD Form 1599) in accordance with AR 735–11.

§ 603.850 Audits of Government property records.

§ 603.850–1 Responsibility for audits.

Government and contractor maintained records of Government property in possession of contractors are subject to audit in accordance with AR 36–5.

§ 603.850–2 Reports of audit.

Audit findings and recommendations pertaining to the administration of Government property in possession of contractors shall be included in the internal audit report covering the audit of the installation/activity administering the contracts involved. Heads of procuring activities shall establish such controls and procedures as are necessary to insure that deficiencies recorded in internal audit reports are corrected and that due consideration is given all recommendations contained therein.

§ 603.850–3 Records in unsatisfactory condition.

(a) If Government or contractor maintained records of Government property in possession of contractors are in such condition that the status of Government property cannot be ascertained without undue expenditure of time, a report thereof shall be submitted by the cognizant audit office through the addressee in § 591.150(b)(6) of this chapter to the head of procuring activity concerned.

(b) Upon receipt of this report, the head of procuring activity shall direct the installation/activity commander to take the necessary corrective action and shall maintain a close followup to insure that such action is promptly taken. The head of procuring activity shall insure that the cognizant audit office is notified when corrective action has been completed.

(c) If the circumstances are such as to justify a waiver of accounting requirements, the case shall be prepared and submitted in accordance with AR 735–79.

PART 604—PROCUREMENT QUALITY ASSURANCE

19. Part 604 is revised to read as follows:

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Contract Provisions for Government Procurement Quality Assurance and Acceptance

604.306 Acceptance of supplies or services.

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Performance of Government Procurement Quality Assurance Actions for Foreign Governments

604.701 General.

AUTHORITY: The provisions of this Part 604 issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Contract Provisions for Government Procurement Quality Assurance and Acceptance

§ 604.306 Acceptance of supplies or services.

(a) Certificates of conformance may be for full or partial performance and may be accepted from prime contractors or from subcontractors provided the subcontractors' certificates are countersigned by a responsible official of the prime contractor.

(b) Certificates of conformance shall include the information below as a minimum—

(1) The contract or purchase order number;

(2) A complete nomenclature of supplies together with lot numbers or other identification, and the quantity in each lot or shipment;

(3) For each lot or shipment, analytical results for each test or inspection prescribed by the contract together with required specification limits;

(4) The name of the company and date of the test or inspection; and

(5) The following certification with the signature and title of the certifying official—

The undersigned, individually and as the authorized representative of the Contractor, warrants and represents that: All of the information supplied above is true and accurate; the material covered by this certificate conforms to all the contract requirements (including but not limited to the drawings and specifications); the analysis appearing herein is a true and accurate analysis; and this certificate is made for the purpose of inducing payment and with knowledge that the information and certification may be used as a basis for such payment.

(c) The following clause shall be used in contracts where acceptance precedes inspection—

CERTIFICATION ACCEPTANCE (MARCH 1969)

Notwithstanding any other provision of the contract, if the supplies for which the Contractor has furnished a certificate of conformance required by the contract are found not to conform to the contract requirements, the Government may, upon notice furnished within a reasonable time after discovery of such nonconformity, reject the supplies and require replacement thereof. Use by the Government of the Contractor's certificate of conformance does not preclude inspection or test or both by the Government. Where a certificate of conformance has been furnished by the Contractor and the Government rejects the supplies, the

Contractor shall have the right to request that a reinspection or retest be performed at the Contractor's expense.

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Performance of Government Procurement Quality Assurance Actions for Foreign Governments

§ 604.701 General.

Procedures for processing requests from foreign governments or international organizations for inspection of direct procurements placed by them with U.S. producers are contained in AR 715–23.

PART 606—PROCUREMENT FORMS

20. Part 606 is revised to read as follows:

Sec.

AUTHORITY: The provisions of this Part 606 issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

§ 606.050 Use of procurement forms.

(a) Procurement forms prescribed by ASPR and APP for use in various aspects of procurement shall be used by all purchasing offices without deviation in format, size, or content unless authority to deviate therefrom has been obtained in accordance with § 1.109 of this title and § 591.109 of this chapter. Recommendations for changes in procurement forms may be submitted in accordance with § 591.105 of this chapter.

(b) Local and command forms as defined in AR 310–1, originated for use in various aspects of procurement for which no form is prescribed by ASPR and APP shall conform with the provisions of section II, Forms Management, AR 310–1. Six copies of all local and command forms shall be forwarded upon date of issuance to the addressee in § 591.150(b)(6) of this chapter for consideration for adoption as a DD or DA Form. The forms shall be accompanied by a transmittal letter giving—

(1) An explanation as to the purpose and need of each form;

(2) Instructions for preparation of each form; and

(3) Average monthly usage of each form.

§ 606.051 Translations of procurement forms.

To facilitate procurement in foreign countries, authority is granted to reproduce a translation of any procurement form. A bilingual form may be used or the translation may be printed as a separate form. When the foreign language translation is printed as a separate form, it shall be attached to the corresponding approved form printed in English. In either instance the clause in § 3.608–2(b)(2)(ii)(*b*) of this title shall be included in the schedule.

Subparts A–D—[Reserved]

Subpart E—Special Contract and Order Formats and Forms

§ 606.501 Format for educational services agreements.

Instructions relative to use of educational service agreements are contained in AR 350–200. The format in § 606.501 replaces DA Form 357, Basic Agreement for Academic Instruction.

§ 606.501–50 Order form for use with educational service agreements.

DA Form 358, Order Form for Academic Instruction, shall be used for ordering educational services under educational service agreements in accordance with instructions in AR 350–200.

§ 606.550 Off-duty academic instruction agreements.

(a) DA Form 588, Basic Agreement for Off-Duty Academic Instruction, shall be used for off-duty academic instruction agreements in accordance with instructions in AR 621–5.

(b) DA Form 589, Order Form to Enter Into Contract for Off-Duty Academic Instruction, shall be used for ordering services under Basic Agreements in accordance with instructions in AR 621–5.

§ 606.551 Commercial warehousing and related services for household goods.

(a) DD Form 1162, Basic Agreement for Storage of Household Goods and Related Services, shall be used in accordance with instructions in AR 743–455.

(b) DD Form 1164, Service Order for Household Goods, shall be used to place orders under Basic Agreements in accordance with instructions in AR 743–455 (see also §§ 591.452–1 and 597.1651 of this chapter).

§ 606.552 Letter contract formats.

§ 606.552–1 Cost-reimbursement type.

The format below is prescribed for use when the definitized contract will be a cost-reimbursement type contract. The appropriate clauses in Subpart H, Part 7 of this title (also see § 23.201–2 of this title) shall be attached thereto as "Attachment A."

(LETTERHEAD)

_____
(Date)

GENTLEMEN:

1. This letter constitutes a contract on the terms set forth herein and signifies the intention of the Department to execute a formal cost-reimbursement type contract with you for the delivery of the supplies and the performance of the services as set forth in the enclosure marked "Attachment A," upon the terms and conditions therein stated, which is incorporated in and made a part hereof.

2. You are directed in accordance with the clause entitled, "Execution, Commencement of Work and Priority Rating," to proceed immediately to commence performance of the work, and to pursue such work with all diligence to the end that the supplies may be delivered or services performed within the time specified in Attachment A, or if no time is so specified, at the earliest practicable date. You shall, in addition, obtain such approvals in respect of commitments hereunder as may be specified in Attachment A.

3. In accordance with the clause entitled "Definitization," you shall submit a quotation of the estimated cost to the Government, including fee, for the articles and services covered by this letter. Your quotation shall be supported by a cost breakdown reflecting the factors outlined in the suggested format enclosed, together with a Certificate of Current Cost or Pricing Data (ASPR 3–807.4) and such other information as may be specified herein.

4. In the event of a termination of performance of the work or any part thereof under this letter pursuant to the Termination clause in Attachment A or in the event that the formal contract is not executed you shall be paid in accordance with the provisions of such Termination clause. Your failure to execute a formal contract by reason of unexcusable delay may justify a termination. Your attention is specifically invited to the clause entitled "Limitation of Government Liability."

5. Please indicate your acceptance of the foregoing by signing this letter and returning three executed copies to this office.

6. This contract is entered into pursuant to 10 U.S.C. 2304(a)( ) and any required determination and findings have been made.

Sincerely yours,

Contracting Officer.

Executed as of the date shown below:

_____

_____

By _____
(Type above, name and position of officer executing this acceptance)

Date _____

§ 606.552–2 Fixed-price type.

The format below is prescribed for use when the definitized contract will be a fixed-price contract. The appropriate clauses in Subpart H, Part 7 of this title (see also § 23.201–1 of this title) shall be attached thereto as "Attachment A."

(LETTERHEAD)

_____
(Date)

GENTLEMEN:

1. This letter constitutes a contract on the terms set forth herein and signifies the

intention of the Department to execute a formal fixed-price contract with you for the delivery of the supplies and the performance of the services as set forth in the enclosure marked "Attachment A," upon the terms and conditions therein stated, which is incorporated in and made a part hereof.

2. You are directed in accordance with the clause entitled "Execution, Commencement of Work, and Priority Rating," to proceed immediately to commence performance of the work, and to pursue such work with all diligence to the end that the supplies may be delivered or services performed within the time specified in Attachment A, or if no time is so specified, at the earliest practicable date.

3. In accordance with the clause entitled "Definitization," you shall submit a firm quotation for the articles and services covered by this letter. Your quotation shall be supported by a cost breakdown reflecting the price factors outlined in the suggested format enclosed, together with a Certificate of Current Cost and Pricing Data (ASPR 3-807.4), if required, and any other information specified herein.

4. In the event of termination of performance of the work or any part thereof under this letter pursuant to an appropriate clause in Attachment A or in the event that the formal contract is not executed, you shall be paid in accordance with the provisions of such clause. Your failure to execute a formal contract by reason of unexcusable delay may justify a termination. Your attention is specifically invited to the clause entitled "Limitation of Government Liability."

5. Please indicate your acceptance of the foregoing by signing this letter and returning three executed copies to this office.

6. This contract is entered into pursuant to 10 U.S.C. 2304(a)( ) and any required determination and findings have been made.

Sincerely yours,

Contracting Officer.

Executed, as of the date shown below:

By _____

(Type above, name and position of officer executing this acceptance)

Date _____

§ 606.553 Lease agreement—Government personal property.

(a) The format below is prescribed for any lease of Government personal property under the authority of 10 U.S.C. 2667 in cases where Subpart G, Part 7 of this title is not applicable.

(b) Variations in the terms and conditions in the format may be approved by a head of procuring activity to whom the authority to approve leases of Government personal property has been delegated (see § 591.5102(b)(4) of this chapter), but only to the extent that the approval complies with the limitations in the delegation of authority.

(c) For leases executed outside the United States, its possessions, and Puerto Rico, the Disputes clause in § 7.103-12(b) of this title or in § 597.103-12(a) of this chapter, as appropriate, shall be substituted for Article 18, Disputes, of the format below.

Contract No. _____

LEASE AGREEMENT—GOVERNMENT PERSONAL PROPERTY

DEPARTMENT OF THE ARMY

Lessee and address:
Property to be used at:
Payment:
To be made to _____
U.S. Army, at _____.

This lease is authorized by 10 U.S.C. 2667.

This Lease Agreement, entered into this _____ day of _____ 19__ by and between the United States of America, hereinafter called the Government, represented by the Contracting Officer executing this agreement, and _____

*a corporation organized and existing under the laws of the State of _____

*joint venture consisting of _____

*a partnership consisting of _____

*an individual trading as _____

of the City of _____ in the State of _____, hereinafter called the Lessee, Witnesseth That,

1. The Government hereby leases to the Lessee and the Lessee hereby hires from the Government, upon the terms and conditions hereinafter set forth, the personal property listed in Schedule A which is attached hereto and made a part hereof.

2. This lease is subject to the approval of _____ and shall not be binding until so approved. The term of this lease shall commence on the _____ day following the mailing of written notice to the Lessee that the lease has been so approved and that the property is ready for delivery, and shall continue for a period of _____ (days, month, or years)** or until sooner terminated or revoked in accordance with the provisions hereof.

3. At any time during the term, either party may terminate this lease in whole or in part effective not less than 90 days after receipt by the other party of written notice thereof without further liability to either party. However, the Secretary of the Army may revoke this lease in whole or in part at any time.

4. Upon commencement of the term of this lease, the Lessee shall take possession of the leased property at _____ as is, without warranty, express or implied, on the part of the Government as to condition or fitness for any purpose.

5. The Lessee shall pay rent during the term of this lease at the rate prescribed in Schedule A. The rental accrued at the end of any calendar month, or at the expiration, termination or revocation of this lease, shall be paid to the Government on or before the 10th day thereafter.

6. The Lessee at its own expense shall maintain the property in good condition and repair and make all necessary replacements of components and parts during the term of this lease. All fuel and lubricants shall be furnished by the Lessee. The Lessee shall make no changes or alterations in the property except with the written consent of the Contracting Officer.

7. The Lessee shall not mortgage, pledge, assign, transfer, sublet, or part with possession of any of the property in any manner to any third party either directly or indirectly, except that this provision shall not preclude the Lessee from permitting the use of the property by a third party with the prior written approval of the Contracting Officer; and the Lessee shall not do or suffer anything whereby any of the property shall or may be encumbered, seized, taken in execution, attached, destroyed, or injured.

8. After taking possession as provided in clause 4, the Lessee shall be solely responsible for the property until it is returned to the Government as provided for in this lease. The property shall be returned in as good condition as when received, reasonable wear and tear excepted. If the Lessee fails to return the property, the Lessee shall pay to the Government the amount specified in Schedule A as the value of the property less the amount determined by the Contracting Officer to represent reasonable wear and tear for the period during which the property was usable. If the Lessee returns the property in other than as good condition as when received, reasonable wear and tear excepted, the Lessee shall pay to the Government the amount necessary to place the property in such condition, or if it is determined by the Contracting Officer that the property cannot be placed in such condition, the Lessee shall pay to the Government the amount specified in Schedule A as the value of the property less both the amount determined by the Contracting Officer to represent reasonable wear and tear for the period during which the property was usable and the scrap value of the property.

9. The Lessee shall take all steps necessary to protect the interest of the Government in the property, and the Contracting Officer may require the Lessee, at its own expense, to take such specific measure, including but not limited to the procurement of insurance, as may be necessary to protect such interest.

10. On or before the last day of the term of this lease the Lessee shall return the property to the Government at _____ or such other place as the Contracting Officer may designate, except that in the event of revocation of this lease the Lessee shall return the property to the Government at the designated place as soon after such revocation as the same can be accomplished. The Lessee shall reimburse the Government immediately, upon presentation of a statement thereof, for all packing and handling costs incurred by the Government in performance of this lease. The Lessee shall also pay all other packing, handling, and transportation charges, including the expenses of reinstalling the property or processing it for extended storage, except that the Lessee's responsibility for return transportation charges shall not exceed the amount required to return the property to the place specifically named above. Further, if the Contracting Officer designates a place to which the property is to be returned other than that specifically named above and if the time required to return the property to such other place exceeds the time required to return the property to the place specifically named above, then the time for which the Lessee must pay rent under clause 5 shall be reduced by the amount of such excess.

11. The property is leased without operators. Any operator deemed incompetent by the Contracting Officer shall be removed from the property.

12. Upon request of the Lessee, the Contracting Officer shall furnish without charge, copies of such drawings, specifications or instructions as the Lessee may require for the operation or repair of the property and as may in the discretion of the Contracting Officer be reasonably available.

13. The Government shall not be responsible for damages to property of the Lessee or property of others, or for personal injuries to the Lessee's officers, agents, servants, or employees, or to other persons, arising from or incident to the use of the property herein leased, and the Lessee shall save the Government harmless from any and all such claims: *Provided*, That nothing contained in this Clause 13 shall be deemed to affect any liability of the Government to its own employees.

14. At all times the Contracting Officer shall have access to the job site whereon any of the property is situated, for the purposes of inspecting or inventorying the same, or for

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* Delete all lines which do not apply.

**Term shall in no event exceed 5 years unless approved by the Secretary.

the purpose of removing the same in the event of the termination of this lease.

15. Control of Government Property. The Manual for Control of Government Property in Possession of Contractors set forth in Appendix B of the Armed Services Procurement Regulation is incorporated by reference and made a part hereof.

16. Officials Not To Benefit. No member or delegate to Congress, or resident commissioner, shall be admitted to any share or part of the lease, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this lease, if made with a corporation for its general benefit.

17. Covenant Against Contingent Fees. The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this lease without liability or in its discretion to require the Lessee to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

18. Disputes. Except as otherwise provided in this lease, any dispute concerning a question of fact arising under this lease which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Lessee. Within 30 days from the date of receipt of such copy, the Lessee may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearings of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitary or so grossly erroneous to imply bad faith, or not supported by substantial evidence, be final and conclusive: *Provided*, That, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Lessee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Lessee shall proceed diligently with the performance of the lease and in accordance with the Contracting Officer's decision.

19. Adjustment of Rentals—State or Local Taxation. Except as may be otherwise provided, the rental rates established in this lease do not include any State or local tax on the property herein leased. If and to the extent that such property is hereafter made taxable by State and local governments by Act of Congress, then in such event the lease shall be renegotiated.

20. Except as otherwise specified in this lease, all notices to either of the parties to this lease shall be sufficient if mailed in a sealed postpaid envelope addressed as follows:

To the Lessee—

(Name)

(Address)

To the Government—

(Name)

(Title)

(Address)

21. Definitions. As used throughout this lease, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this lease on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this lease, the authorized representative of a Contracting Officer acting within the limits of his authority.

22. This agreement shall be subject to the written approval of the Secretary of the Army or his duly authorized representative and shall not be binding until so approved.

23. Alterations. The following changes were made in this lease before it was signed by the parties hereto:

In witness whereof, the parties hereto have executed this lease as of the day and year first above written.

THE UNITED STATES OF AMERICA

By---

(Official Title)

(Lessee)

By---

(Business Address)

Two witnesses:

(Address)

(Address)

I ---- certify that I am the Secretary of the Corporation named as Lessee herein, that ---- who signed this lease on behalf of the Lessee was then ---- of said corporation; that said lease was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporation powers.

In witness whereof, I have hereunto affixed my hand and the seal of said corporation this ---- day of ----, 196--.

[CORPORATE SEAL]

(Secretary)

Subparts F–WW—[Reserved]

Subpart XX—Supply of Procurement Forms

§ 606.5001 Forms stocked by Adjutant General publications centers.

(a) Unless otherwise indicated, the procurement forms prescribed in ASPR and APP are procured by The Adjutant General and are stocked in Adjutant General publications centers. Requisitions for procurement forms shall be submitted through normal publications supply channels (see AR 310–1).

(b) Department of the Army Pamphlet 310–2 lists by category and number all blank forms prescribed for use throughout the Department of the Army. Most procurement forms are available either as cut sheet forms or as multiple part manifold forms. When forms are available in various constructions, requisitions shall indicate the particular construction desired; e.g., Standard Form 21 (Cut Sheet).

§ 606.5002 Forms not stocked by Adjutant General publications centers.

Certain procurement forms of limited application are not printed or stocked by The Adjutant General and local reproduction is authorized in Department of the Army Pamphlet 310–2. Such forms are identified by the letter "R" following the form number; e.g., DA Form 1229–R.

§ 606.5003 Reproducible masters.

(a) The Adjutant General normally does not stock reproducible masters of procurement forms. He may, however, authorize local purchase of reproducible masters when the cognizant head of procuring activity has approved their use.

(b) Contracting officers shall forward requests for the use and local purchase of reproducible masters (hectograph, stencil, offset) by letter to the cognizant head of procuring activity for approval of their use. Requests shall include—

(1) The proposed distribution list of each form and the number of copies required for each addressee;

(2) Justification for the requirement for each copy;

(3) The number of procurements for which each form is used in a 6-month period; and

(4) The number and type of reproducible masters for which approval is requested.

(c) If the cognizant head of procuring activity approves the use of the reproducible masters requested, he shall forward the approval to The Adjutant General, Attention: Chief, Army Publications Division, Department of the Army, Washington, D.C. 20315, for authority to purchase reproducible masters locally in accordance with AR 310–1.

(d) If the Adjutant General authorizes the local purchase of the reproducible masters (blanket approvals shall not be given), the contracting officer shall—

(1) Purchase reproducible fasters in quantities for current operational needs and not to exceed a 6-month supply; and

(2) Insure that reproducible masters purchased do not deviate from the approved form in format, size, or content, except that repetitive entries such as the name and address of the purchasing office may be included in the construction thereof.

(e) Except where the reverse of a form, e.g., DD Form 1155r, is available from Adjutant General publications centers, approval by The Adjutant General for local purchase of a reproducible master includes authority for local purchase of the reverse of the form.

PART 608—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

21. Part 608 is revised to read as follows:

AUTHORITY: The provisions of this Part 608 issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

Subpart A—General Provisions

§ 608.108 Government estimates.

Solicitations and any related documents which include the estimated cost or portions thereof of construction projects or architect-engineer services contemplated for procurement shall be designated "For Official Use Only," unless the nature of the information therein requires a security classification.

§ 608.150 Requests for Secretarial determinations and approvals.

Requests for determinations and approvals of the Assistant Secretary of Defense (Installations and Logistics) pursuant to §§ 18.110(c), 18.111, and 18.112 of this title, and of the Secretary of the Army pursuant to § 18.115 of this title shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this chapter.

§ 608.151 Responsibility for new construction.

(a) The Chief of Engineers has been assigned the responsibility for the direction of all work pertaining to new construction for the Department of the Army. New construction includes the advance planning; preparation of plans, specifications, and estimates; design; erection; budgeting and allocation of funds; issuance of directives; and provision of labor, material, equipment, supplies, and transportation necessary for initial erection or installation of any building structure, plant, ground facility, utility system, wharf, airfield, or other real property for the Department of the Army built separately or apart from existing facilities. In the execution of new construction, the Chief of Engineers is charged with the application of Department of the Army construction policies including conformance with construction standards, suitability of the project, and technical and engineering accuracy.

(b) All work under the supervision of the Corps of Engineers, U.S. Army, including new work and modifications to work previously authorized, shall be accomplished by formal directive issued by the Chief of Engineers. The following officials, however, are authorized to accomplish emergency construction and necessary repair work for all installations/activities under their jurisdiction (see Army Regulations in the 415 and 420 series)—

(1) Major oversea commanders;

(2) Major commanders in the United States, its territories and possessions;

(3) Attachés;

(4) Chiefs of foreign missions (Army); and

(5) Chiefs of Army sections of any joint military missions not operating under the jurisdiction of a major oversea command.

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—Architect-Engineer Selection Procedures

§ 608.402 Selection.

§ 608.402–1 Selection policy.

The U.S. Army Corps of Engineers has been assigned responsibility for Department of the Army implementation of DoD directives pertaining to uniform standards for the employment and payment of architect-engineer services (see § 591.450–5 of this chapter).

§ 608.402–3 Special approval of selections.

Requests for approval of selections by the Secretary of the Army or the Assistant Secretary of Defense (Installations and Logistics) shall be forwarded through the Office, Chief of Engineers, to the addressee in § 591.150(b)(1) of this chapter. Requests shall contain information in support of the proposed selection with sufficient facts to show compliance with ASPR and other DoD requirements.

Subpart E—Foreign Purchases and Construction in Foreign Countries

§ 608.508 Exceptions.

§ 608.508–1 Nonavailability in the United States.

Letter requests for approval by the Secretary or Deputy Secretary of Defense shall contain the information required by § 596.103–2(c) or § 596.805–2(a) of this chapter, as applicable, and shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

§ 608.508–2 Unreasonable costs or impracticability.

Letter requests for approval by the Secretary or Deputy Secretary of Defense shall contain the information required by § 18.509–3 of this title and § 596.805–2(a) of this chapter herein when applicable and shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

§ 608.509 Procedures.

§ 608.509–3 Evaluation of bids and proposals.

Proposed awards requiring approval of the Secretary or Deputy Secretary of Defense shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this chapter.

Subpart F—[Reserved]

Subpart G—Labor Standards for Contracts Involving Construction

§ 608.704 Administration and enforcement.

§ 608.704–2 Wage determinations.

The Assistant Secretary of the Army (Installations and Logistics) has delegated to the Chief of Engineers, with authority to redelegate to a designee at a level no lower than the head of procuring activity, the authority to submit a written request to the Solicitor of Labor for an extension of the expiration date of a wage determination under the circumstances in § 18.704–2(a)(5) of this title. This delegation of authority is published in § 591.5102(b)(14) of this chapter.

§ 608.704–12 Contracting officer's report.

The report required by § 18.704–12 of this title is an exempt report, paragraph 7–2*t*, AR 335–15.

§ 608.704–14 Contract termination reports.

The report required by § 18.704–14 of this title is an exempt report, paragraph 7–2*t*, AR 335–15.

§ 608.704–16 Overtime and liquidated damages under the Contract Work Hours Standards Act.

The Assistant Secretary of the Army (Installations and Logistics) has delegated to the Chief of Engineers, with authority to redelegate to a designee at a level no lower than the head of procuring activity, the authority to—

(a) Recommend to the Solicitor of Labor that liquidated damages in excess of $100 be waived or adjusted under the conditions stated in § 18.704–16 of this title.

(b) Waive or adjust liquidated damages of $100 or less under the conditions stated in § 18.704–16 of this title.

This delegation of authority is published in § 591.5102(b)(14) of this chapter.

§ 608.705 Construction Labor Standards Report.

(a) Reports shall be forwarded through the cognizant head of procuring

activity to the Labor Advisor, Office of the Assistant Secretary of the Army (Installations and Logistics), Washington, D.C. 20310.

(b) Reports Control Symbol SAOSA–41 has been assigned this report, which shall be prepared in accordance with instructions in § 18.705 of this title.

PART 612—SERVICE CONTRACTS

22. Section 612.150–1 is revoked; §§ 612–205 and 612.206(b) are revised; §612.357–4 is revoked; new §§ 612.358, 612.358–1, 612.358–2, 612.358–3, 612.358–4, 612.358–5, 612.358–6, and 612.358–7 are added; and Subpart F is revoked, as follows:

§ 612.150–1 Renewal of contracts. [Revoked]

§ 612.205 Authorization to enter into contracts "determinations and findings."

(a) In accordance with annual DoD Appropriations Acts, the Assistant Secretary of the Army (Installations and Logistics) or the Assistant Secretary of the Army (Research and Development), as appropriate, must personally determine—

(1) That to contract for expert or consultant services is advantageous to the national defense; and

(2) That the existing facilities of the Department of the Army are inadequate.

Except as provided in § 591.150–3(b) of this chapter, such determinations are made on a case-by-case basis after submission of information required by § 22.206 of this title and § 612.206 to the appropriate Assistant Secretary.

(b) If a proposed contract is in one of the categories described in § 591.450–3 (b) of this chapter but authority to approve the award of the contract has not been delegated below Secretarial level, or, if a proposed contract is not in one of the categories in § 591.450–3(b), a request for determinations and findings and approval of award of contract shall be submitted to the appropriate Assistant Secretary of the Army.

(c) Proposed contracts submitted to the Assistant Secretary of the Army (Installations and Logistics) shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(7) of this chapter. Those submitted to the Assistant Secretary of the Army (Research and Development) shall be forwarded through the cognizant head of procuring activity to the Office, Chief of Research and Development, Department of the Army, Washington, D.C. 20310.

(d) If a proposed contract is in one of the categories described in § 591.450–3 (b) of this chapter and the authority to approve the award of the contract has been delegated below Secretarial level, a request for approval of award shall be submitted to the appropriate delegee.

§ 612.206 Requests for determinations and findings.

* * * * *

(b) If a request is submitted in accordance with § 612.205(d), the information required by paragraph (a) (3) through (5) of this section shall be furnished.

§ 612.357–4 Reimbursable and nonreimbursable costs. [Revoked]

§ 612.358 Reimbursable and nonreimbursable costs.

§ 612.358–1 Travel and transportation.

(a) Government-furnished transportation for contractor personnel, their baggage and equipment, shall be used by the contractor for initial travel from its facility to the site of work, for travel on official business between sites of work, and for terminal travel from site of work to the contractor's facility.

(b) If the Government is unable to furnish Government transportation, CFS personnel shall be provided with official travel orders and the contractor shall be reimbursed in accordance with the rates applicable to Department of the Army civilian personnel. For this purpose, the policies, standards, and procedures applicable to Department of the Army civilian personnel, as published in the Joint Travel Regulations effective on the date of award of the contract, shall be used as guidelines.

(c) Travel, transportation, and other costs connected with replacement or reassignment of contractor personnel shall not be reimbursable if the replacement or reassignment was caused by—

(1) Unsatisfactory performance;

(2) Misconduct on or off duty;

(3) Security reasons;

(4) Voluntary termination of employment by the contractor personnel; or

(5) Voluntary removal by the contractor before the end of the contract period.

In the above instances Government-furnished transportation shall not be used by the replaced or replacement contractor personnel, except that when commercial transportation is not available, Government-furnished transportation may be used on a space-available basis provided the costs of such transportation are deducted from payments made under the contract.

(d) Contract transportation cost-reimbursement ceiling shall be established and shall not be exceeded without the prior written approval of the contracting officer.

(e) The cost of travel of dependents shall not be reimbursable nor shall the Government be obligated to provide transportation for them.

(f) Rental transportation furnished by the contractor to contractor personnel for their general use shall not be reimbursable. This does not apply to travel performed under authorized travel orders issued in lieu of Government-furnished transportation.

§ 612.358–2 Overtime.

(a) Payment shall be made for authorized overtime. However, prior written approval for use of overtime shall be obtained from the contracting officer or his authorized representative. When the approval is granted by the contracting officer's authorized representative, he shall not exceed the contractual overtime ceiling limitations without first obtaining the written approval of the contracting officer.

(b) Payment for authorized overtime performed shall be at the fixed hourly overtime rates prescribed in the contract. Time in travel shall not be considered as overtime work unless the contractor personnel is directed to travel during other than normal work hours or in excess of the normal workweek.

§ 612.358–3 Leave and other absences.

Reimbursement shall not be made for costs of services not performed by contractor personnel because of leave, illness, injury, legal holidays (except for U.S. holidays, or other absences).

§ 612.358–4 Allowances and differentials for foreign and non-foreign areas.

Contractor personnel performing services outside the continental United States shall be paid the designated rate set forth in the contract plus an authorized overseas differential. In determining the overseas differential, Department of the Army Civilian Personnel Regulations T6 and T7, in effect at the time of contract award, shall be applicable.

§ 612.358–5 Procurement of materiel by contractor.

The contractor shall not be reimbursed for the cost of material purchased by him in connection with performance under the contract.

§ 612.358–6 Uniforms.

When contractor personnel are directed to wear uniforms or other special clothing in accordance with AR 670–5, field commanders may issue on a temporary loan basis from available inventories items or organizational field clothing and equipment and items of special clothing and equipment: *Provided*, That the items used are in performance of official work and are returned to the issuing organization when no longer required. Collection for items not returned shall be at the same rate and manner as collections from Department of the Army military or civilian personnel, except that costs of items not collected from individual contractor personnel shall be noted on the contractor's Certificate of Performance and shall be deducted from payments due the contractor. There shall be no cost reimbursement for any uniforms or special clothing purchased by the contractor or by contractor personnel for use during contract performance.

§ 612.358–7 Deceased personnel.

(a) When contractor personnel die within the continental United States while on a duty assignment in the performance of work prescribed in the contract, the field commander shall notify the contracting officer who in turn shall inform the contractor. The contractor shall be responsible for arranging mortuary services and for payment of all costs incidental to the care and disposition of the remains and its transportation.

(b) Contractor personnel who die outside the continental United States while on duty assignment in the performance

of work under the contract are eligible for the care and disposition of their remains in accordance with AR 638–40. The contractor shall pay all costs incidental to the care and disposition of the remains. The Government shall provide on a reimbursable basis and at the request of the contractor suitable transportation for the remains from the place of death to the port of entry within the continental United States.

Subpart F—Contracts for Preparation of Household Goods for Shipment, Government Storage, and Related Services. [Revoked]

PART 616—APPENDIXES TO ARMY PROCUREMENT PROCEDURE

23. A new Part 616 is added to this subchapter, to read as follows:

Sec.

AUTHORITY: The provisions of this Part 616 issued under secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

§ 616.1 Appendix A—Armed Services Board of Contract Appeals.

(a) *Preliminary procedures*—(1) *Rule 3—Forwarding of appeals.* Contracting officers shall promptly forward notices of appeal received directly to the addressee in § 591.150(b)(3) of this chapter. When notices of appeal are received by mail, contracting officers shall forward the envelope showing the postmark.

(2) *Rule 4—Duties of the contracting officer.* (i) The contracting officer shall include with the compilation of documents enumerated in Rule 4 a listing of its contents and shall forward the compilation and listing direct to the Board.

(ii) Concurrent with forwarding the compilation to the Board, the contracting officer shall forward the following documents to the addressee in § 591.150 (b) (4) of this chapter with copies to the cognizant head of procuring activity.

(*a*) A copy of the listing and compilation referred to in paragraph (a) of this section; and

(*b*) A comprehensive report (this report shall not be furnished the Board nor the contractor) which shall include—

(*1*) The names and addresses of all potential witnesses, including those of the contractor, if known, having information concerning the facts in dispute;

(*2*) A signed statement by each Government witness reflecting the facts to which he will be able to testify (or a summary thereof if it is impossible to obtain a signed statement), and a statement as to the expected availability at the hearing of each Government witness;

(*3*) An analysis of the contractor's position and a discussion of the validity thereof;

(*4*) A memorandum by the legal advisor of the official making the decision, setting forth an analysis of the legal issues involved in the dispute and comments upon the adequacy of the findings of fact and the legal sufficiency of the decision; and

(*5*) The advisory report, if any, of the Contract Settlement Review Board.

(iii) A copy of the listing referred to in paragraph (a) of this section shall be provided the appellant in satisfaction of the listing requirement of Rule 4. The contracting officer shall notify the appellant that if the appellant desires to furnish any additional documentation, the contractor should—

(*a*) Identify such documentation with the appeal and forward it direct to the Board;

(*b*) Notify the contracting officer by furnishing him with a list of the documents so forwarded; and

(*c*) Maintain a copy of such documentation for examination by the contracting officer or his representative.

(iv) If the appellant suggests any additional documentation be provided by the contracting officer, the contracting officer shall notify the Chief Trial Attorney and shall withhold action with respect to the suggestion until advice of the Chief Trial Attorney has been considered, except that this provision shall not apply to obvious unintended omission of documentation on the part of the contracting officer.

(v) A copy of all correspondence and other data and information pertinent to the dispute received by the contracting officer after the comprehensive report has been submitted shall be promptly forwarded to the Chief Trial Attorney, with copies to the cognizant head of procuring activity.

(3) *Rule 6—Pleadings.* (i) If the complaint is received by the contracting officer subsequent to forwarding the comprehensive report, the contracting officer shall, as promptly as possible but in not more than 15 calendar days after receipt thereof, forward directly to the Chief Trial Attorney supplementary information covering any issues raised by the complaint which were not sufficiently covered in the comprehensive report. This information shall include specific admissions or denials of each allegation of fact contained in the complaint and a statement of any affirmative defenses or counterclaims applicable. Copies of the supplementary information furnished the Chief Trial Attorney shall be furnished the cognizant head of procuring activity.

(ii) The Chief Trial Attorney and the attorneys assigned to his office are authorized to communicate directly by telephone or otherwise with any person or organization to secure any witnesses, documents, or information considered necessary in connection with representing the Government in matters before the Board. The contracting officer shall be informed of any actions taken in connection with the above matters.

(b) *Representation*—(1) *Rule 27—The Respondent.* (i) Upon discovery of new facts or circumstances, the Chief Trial Attorney is authorized, in appropriate cases, to return appeals to the cognizant head of procuring activity for reconsideration in light of additional facts or circumstances disclosed.

(ii) An agreement on matters as to which there is no substantial controversy and which will not have the effect of disposing of an appeal may be entered into by the Chief Trial Attorney or by an individual trial attorney: *Provided*, That, in the case of a prehearing written stipulation or agreement, authority therefor shall have been granted the individual trial attorney in advance by the Chief Trial Attorney.

(iii) In appropriate cases, such as those where time-consuming delays would occur by returning the appeal to the contracting officer, the Chief Trial Attorney (or an individual trial attorney acting with the prior approval of the Chief Trial Attorney) may enter into an agreement with an appellant which will have the effect of disposing of an appeal after concurrence has been obtained from a representative of the cognizant head of procuring activity. Such agreement may then become the basis of a Board decision disposing of the appeal.

(c) *Motions for reconsideration* [*Rule 29*]. The Chief Trial Attorney shall independently review all Board decisions involving Army contracts. If he determines that any decision should be reconsidered, he shall file with the Board a motion for reconsideration. If, in connection with § 591.314(c) of this chapter, the Chief Trial Attorney does not concur with a request of the cognizant head of procuring activity that a motion for reconsideration is appropriate, he shall forward the request together with his reasons in opposition within 5 calendar days to the addressee in § 591.150(b)(1) of this chapter for decision. At a hearing on a motion for reconsideration, the Government's case shall normally be presented by the Chief Trial Attorney assisted by the trial attorney who argued the Government's case on the appeal and by an attorney designated by the cognizant head of procuring activity.

§ 616.2 Appendix B—Control of Government property in possession of contractors.

(a) *Part 1—Introduction—General.* Local situations may in certain instances demand accounting for Government property by methods which differ from those prescribed in § 30.2 of this title. Where it can be clearly shown that such different accounting methods adequately protect the interest of the Government and do not place an improper burden upon the contractor, a request for approval to deviate from the methods prescribed in § 30.2 of this title may be submitted, in accordance with § 591.109 of this chapter and AR 735–79, to the addressee in § 591.150(b)(6) of this chapter.

(b) *Part 2—Contractor's responsibility—Assumption of responsibility*—(1) *Discrepancies incident to shipment.* In the absence of a transportation officer or agent (see AR 55–355), the property administrator shall initiate and follow through to conclusion all necessary action with respect to any discrepancies incident to shipment or receipt of Government-furnished property made on Government Bills of Lading, commercial bills

of lading, or commercial bills of lading converted to Government Bills of Lading at destination. The property administrator shall use source data assembled by the contractor under § 30.2 (item 201.2) of this title (see AR 735–11).

(2) *Relief from responsibility.* The documentation of a written determination by the contracting officer as to liability for Department of the Army property lost, damaged, destroyed, or consumed in excessive quantities while in possession of a contractor serves the same purpose as a Report of Survey (see AR 735–11) in a Military Property Account, even though the contractor is the accountable and responsible party and his liability is for determination only under the terms of the contract. To this end, the presentation of facts surrounding the loss or damage or both shall be accurate and complete. The file shall—

(i) Reflect the investigative and other actions of the property administrator and contracting officer to validate the presentation;

(ii) Cite the specific contract terms on which a determination is made; and

(iii) Stand alone as a full report of the case without reference to other files.

The contracting officer shall insure that there is adequate documentation and validation in any case which he approves.

(c) *Part 3—Records of Government Property*—(1) *General.* In those cases where contractor's records of Government property are not used as the official records (see § 603.803 of this chapter), the property administrator shall maintain such of the records specified in § 30.2 (Part 3) as may be required to maintain effective property control. The property administrator shall include such a system of registration as is necessary to insure receipt by him of all property documentation pertinent to the contract.

(2) *Financial control accounts.* In order to administer the Financial Management Plan of the Department of the Army (see AR 37–5 and AR 37–108), summary financial data for each Army contract, representing Government-owned facilities and materials of the categories specified in § 30.2 (item 311) of this title shall be received and forwarded by property administrators in accordance with ASPR S3–603. Detailed procedures governing the handling of this data by Department of the Army property administrators and finance and accounting officers to meet DoD accounting and reporting requirements are contained in AR 735–20 and AR 735–72.

(d) *Part 4—Identification*—(1) *Plant equipment.* The identification marking of Government property furnished under Department of the Army contracts shall be physically affixed to the item as specified in § 30.2 (item 404). The standard Departmental registration system numbering is applicable to equipment such as—

(i) Motor vehicles (see AR 58–1);

(ii) Materials handling equipment (see AR 700–3900–5); and

(iii) Railroad equipment (see AR 55–255).

§ 616.3 Appendix C—Control of property in possession of nonprofit research and development contractors.

(a) *Part 1—Introduction—General.* Local situations may in certain instances demand accounting for Government property by methods which differ from those prescribed in § 30.3 of this title. Where it can be clearly shown that such different accounting methods adequately protect the interest of the Government and do not place an improper burden upon the contractor, a request for approval to deviate from the methods prescribed in § 30.3 of this title may be submitted, in accordance with § 591.109 of this chapter and AR 735–79, to the addressee in § 591.150(b)(6) of this chapter.

(b) *Part 2—Contractor's responsibility—Assumption of responsibility*—(1) *Discrepancies Incident to Shipment.* In the absence of a transportation officer or agent (see AR 55–355), the property administrator shall initiate and follow through to conclusion all necessary action with respect to any discrepancies incident to shipment or receipt of Government-furnished property made on Government bills of lading, commercial bills of lading, or commercial bills of lading converted to Government bills of lading at destination. The property administrator shall use source data assembled by the contractor under item 201.2 (a) in § 30.3 of this title (see AR 735–11).

(2) *Relief from responsibility.* The documentation of a written determination by the contracting officer as to liability for Department of the Army property lost, damaged, destroyed, or consumed in excessive quantities while in possession of a contractor serves the same purpose as a Report of Survey (see AR 735–11) in a Military Property Account, even though the contractor is the accountable and responsible party and his liability is for determination only under the terms of the contract. To this end, the presentation of facts surrounding the loss or damage or both shall be accurate and complete. The file shall—

(i) Reflect the investigative and other actions of the property administrator and contracting officer to validate the presentation;

(ii) Cite the specific contract terms on which a determination is made; and

(iii) Stand alone as a full report of the case without reference to other files.

The contracting officer shall insure that there is adequate documentation and validation in any case which he approves.

(c) *Part 3—Records of Government Property*—(1) *General.* In those cases where contractor's records of Government property are not used as the official records (see § 603.803 of this chapter), the property administrator shall maintain such of the records specified in § 30.3 (Part 3) of this title as may be required to maintain effectve property control. The property administrator shall include such a system of registration as is necessary to ensure receipt by him of all property documentation pertinent to the contract.

(2) *Financial control accounts.* In order to administer the Financial Management Plan of the Department of the Army (see AR 37–5 and AR 37–108), summary financial data for each Army contract, representing Government-owned facilities and materials of the categories specified in § 30.3 (item 311) of this title shall be received and forwarded by property administrators in accordance with ASPR S3–603. Detailed procedures governing the handling of this data by Department of the Army property administrators and finance and accounting officers to meet DoD accounting and reporting requirements are contained in AR 735–20 and AR 735–72.

(d) *Part 4—Identification—Plant equipment.* The identification marking of Government property furnished under Department of the Army contracts shall be physically affixed to the item as specified in § 30.3 (item 404) of this title. The standard Departmental registration system numbering is applicable to equipment such as—

(1) Motor vehicles (see AR 58–1);

(2) Materials handling equipment (see AR 700–3900–5); and

(3) Railroad equipment (see AR 55–255).

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Management Division, TAGO.

[F.R. Doc. 69–7075; Filed, June 17, 1969; 8:45 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER C—AGE DISCRIMINATION IN EMPLOYMENT

PART 850—RECORDS TO BE MADE OR KEPT RELATING TO AGE; NOTICES TO BE POSTED; ADMINISTRATIVE EXEMPTIONS

Exemption for Certain Activities Designed Exclusively To Provide or Encourage Employment of Persons With Special Employment Problems

Correction

In F.R. Doc. 69-6845, appearing at page 9157, in the issue for Wednesday, June 11, 1969, in the penultimate line of § 850.15(c), the word "Administration" should read "Administrator".

Title 7—AGRICULTURE

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

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 3]

PART 778—EXPORT WHEAT MARKETING CERTIFICATE REGULATIONS

Miscellaneous Amendments

Basis and purpose. The following amendment is issued to permit exporters to file reports of their intention to export wheat (other than exports of wheat under Public Law 480) by telephone. These reports must, however, be confirmed immediately in writing. In the past, the Department has accepted reports by telephone of intentions to export wheat consisting of notices of sale covering sales made under Public Law 480. On the other hand, reports of intention to export consisting of an offer (other than notices of sale covering a sale under Public Law 480) have been required to be submitted in writing, such as by telegram, teletypewriter or telex. There have been times recently when exporters were unable to timely file their reports as a result of power failure within the Department's telegraph service and at times when the Department's telegraph service was overloaded with incoming messages. This amendment will provide a means by which reports may be filed with the Department when the exporter is unable to timely communicate by telegraph. Many exporters have requested that this additional means of filing reports of their intention to export wheat be made available to them. Corresponding changes in the Wheat Export Program (GR-345) which relate to export payments on wheat are issued concurrently with these regulations. It is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 553) is impracticable and contrary to the public interest and this amendment shall be effective as hereinafter provided.

The Export Wheat Marketing Certificate Regulations (32 F.R. 14727 and 16251, as amended by 33 F.R. 10183 and 34 F.R. 6767) are hereby amended as follows:

§ 778.6 [Amended]

1. Section 778.6 is amended by changing the second sentence of paragraph (a) to read as follows: "The report should normally be filed in writing, such as by telegram, teletypewriter or telex although telephone may be used."

§ 778.7 [Amended]

2. Section 778.7 is amended by changing the first sentence of paragraph (b)(1) to read as follows: "An exporter of wheat described in paragraph (a) of this section shall submit the report of his intention to export wheat to the Assistant Sales Manager. The report should normally be submitted in writing, such as by telegram, teletypewriter, or telex although telephone may be used. Telephoned reports must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter or telex."

3. Section 778.7 is further amended by changing in paragraph (b)(2) the language immediately preceding subdivision (i) and by changing paragraph (b)(5) to read as follows:

(2) *Form.* A report including a written confirmation of a telephoned report shall be submitted in the name of the exporter, shall set forth his full business name and address, shall be signed or in the case of a telephoned report, transmitted by the exporter or a person authorized to make contracts on behalf of the exporter and shall state the following:

* * * * *

(5) A request to modify an offer or withdraw an offer should normally be filed in writing, such as by telegram, teletypewriter, or telex although telephone may be used. Telephoned requests must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter, or telex.

* * * * *

4. Section 778.7 is further amended by changing the language in the second set of parenthesis in paragraph (b)(4) to read: "(if otherwise made in writing or by telephone)."

5. Section 778.7 is amended by adding after the second sentence of paragraph (c)(1) the following: "In the case of a report submitted by telephone, Form CCC-342 will not be forwarded to the exporter until the written confirmation of the exporter's report has been received by the Assistant Sales Manager and the exporter's offer will not be considered accepted until such form has been transmitted by the Assistant Sales Manager."

§ 778.9 [Amended]

6. Section 778.9 is amended by changing the first sentence of paragraph (b)(1) to read as follows: "An exporter of Durum wheat described in paragraph (a) of this section shall submit the report of his intention to export wheat to the Assistant Sales Manager. The report should normally be submitted in writing, such as by telegram, teletypewriter or telex although telephone may be used. Telephoned reports must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter or telex."

7. Section 778.9 is further amended by changing in paragraph (b)(2) the language immediately preceding subdivision (i) and by changing paragraph (b)(5) to read as follows:

(2) *Form.* A report including a written confirmation of a telephoned report shall be submitted in the name of the exporter, shall set forth his full business name and address, shall be signed or in the case of a telephoned report, transmitted by the exporter or a person authorized to make contracts on behalf of the exporter and shall state the following:

* * * * *

(5) A request to modify an offer should normally be filed in writing, such as by telegram, teletypewriter, or telex although telephone may be used. Telephoned requests must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter or telex.

* * * * *

8. Section 778.9 is amended by adding after the second sentence of paragraph (e)(1) the following: "In the case of a report submitted by telephone, Form CCC-422 will not be forwarded to the exporter until the written confirmation of the exporter's report has been received by the Assistant Sales Manager, and the exporter's offer will not be considered accepted until such form has been transmitted by the Assistant Sales Manager."

(Secs. 379a to 379j, 52 Stat. 31 as amended, sec. 5, 62 Stat. 1070, sec. 102, 68 Stat. 454, as amended, 7 U.S.C. 1379a to 1379j, 15 U.S.C. 714c, 7 U.S.C. 1702)

Effective date: This amendment shall become effective at 3:31 p.m., e.d.t., on June 16, 1969.

Signed at Washington, D.C. on June 11, 1969.

J. PHIL CAMPBELL,
Acting Secretary.

[F.R. Doc. 69-7189; Filed, June 13, 1969; 1:43 p.m.]

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

[Lemon Reg. 377, Amdt. 2]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, 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 recommendations and information submitted by the Lemon 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 lemons, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such lemons as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under 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 hereof in the FEDERAL REGISTER (5 U.S.C. 553) 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 lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(ii) of § 910.677 (Lemon Reg. 377, 34 F.R. 9059) are hereby amended to read as follows:

§ 910.677 Lemon Regulation 377.

* * * * *

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

(ii) District 2: 358,050 cartons.

* * * * *

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

Dated: June 13, 1969.

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

[F.R. Doc. 69–7083; Filed, June 17, 1969; 8:45 a.m.]

PART 966—TOMATOES GROWN IN FLORIDA

Order Terminating Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the production area 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 Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments regulation should be terminated. The second picking of tomatoes in central Florida has been completed. Supplies of tomatoes from competing areas in South Carolina, Georgia, and Texas are increasing. Therefore, continuation in effect of the regulation would no longer tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule-making procedure, and that good cause exists for not postponing the effective date of this termination order until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This order relieves restrictions on the handling of tomatoes grown in the production area; (2) information regarding the committee's recommendations has been made available to producers and handlers in the production area; and (3) compliance with this termination order will not require any special preparation by handlers which cannot be completed by the effective date.

Order terminated. The provisions of § 966.396, as amended (33 F.R. 16330, 17310, 19161; 34 F.R. 128, 6326, 7135, 7170, 7578, 8152, 9191) are hereby terminated.

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

Dated: June 13, 1969, to become effective June 14, 1969.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 69–7207; Filed, June 17, 1969; 8:50 a.m.]

PART 980—VEGETABLES; IMPORT REGULATIONS

Order Terminating Tomato Import Regulation

Pursuant to the requirements of § 8e–1 of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e–1), Tomato Import Regulation § 980.203, as amended (33 F.R. 16440, 17310, 19161; 34 F.R. 128, 6326, 7570, 8119, 9191), is hereby terminated.

It is hereby found that good cause exists for not postponing the effective date of this termination order beyond that herein specified (5 U.S.C. 553) in that (1) the requirements of § 8e–1 of the Act make such termination mandatory upon termination of the corresponding regulations imposed on shipments of domestic tomatoes; (2) this termination corresponds with the termination of regulations on shipments of domestic tomatoes under Marketing Order No. 966 as amended (7 CFR Part 966); and (3) this termination action relieves restrictions on the importation of tomatoes.

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

Dated June 13, 1969, to become effective June 14, 1969.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 69–7208; Filed, June 17, 1969; 8:50 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS AND POLICIES

[Amdt. 2]

PART 1408—SETOFF, WITHHOLDING, AND STOP PAYMENT POLICIES OF COMMODITY CREDIT CORPORATION

Setoff

The regulations governing the Setoff, Withholding, and Stop Payment Policies of the Commodity Credit Corporation published on June 24, 1965 (30 F.R. 8094) and amended on August 12, 1966 (31 F.R. 10733), are further amended as follows:

In § 1408.4, the introductory portion of paragraph (e)(2) and subdivision (iv) of paragraph (e)(2) are revised to read:

§ 1408.4 Setoff.

* * * * *

(e) * * *

(2) Any loss or damage debt of less than $250 if:

* * * * *

(iv) The debt cannot be grouped within 20 months from the date it was first declined by the carrier with other similar debts against the same carrier making a total of $250 or more.

(Sec. 4(d), 62 Stat. 1071; 15 U.S.C. 714b(d))

Effective date: On publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 12, 1969.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 69–7182; Filed, June 17, 1969; 8:48 a.m.]

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1969 Crop Barley Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1969 Crop Barley Loan and Purchase Program

The General Regulations Governing Price Support for the 1964 and Subsequent Crops (Revision 1) (31 F.R. 5941) and any amendments thereto and the 1966 and Subsequent Crop Barley Loan and Purchase Program regulations (31 F.R. 7964 and 32 F.R. 9151) which contain regulations of a general nature with respect to price support operations are further supplemented for the 1969 crop of barley as follows:

Sec.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051 as amended; 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 1421.2275 Availability.

A producer desiring a price support loan must request a loan on his eligible barley on or before April 30, 1970, on barley stored in Alaska, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming, and on or before March 31, 1970, on barley stored in all other States. To obtain price support through sales, a producer must execute and deliver to the appropriate county ASCS office a Purchase Agreement (Form CCC–614), indicating the approximate quantity of 1969 crop barley he will sell to CCC, on or before May 31, 1970, for barley stored in the States named in this section and on or before April 30, 1970, for barley stored in all other States.

§ 1421.2276 Compliance requirements.

To be eligible for a loan or purchase, a producer must qualify for a price support payment under the 1966–69 Feed Grain Program Regulations (31 F.R. 8339), and any amendments thereto, on barley of the 1969 crop produced on the farm on which the barley tendered for loan or purchase was produced except that such qualification is not necessary with respect to barley produced in Alaska or in any other area of the United States in which the feed grain program is not in effect.

§ 1421.2277 Warehouse charges.

Subject to the provisions of § 1421.2269, the schedules of deductions set forth in this section shall apply to barley stored in an approved warehouse operating under the Uniform Grain Storage Agreement and operated by an Eastern common carrier.

(a) *Warehouses approved under the Uniform Grain Storage Agreement.*

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES BY MATURITY DATES

Maturity date of Apr. 30, 1970	Deduction (cents per bushel)	Maturity date of May 31, 1970
(1)		(1)
Prior to May 16, 1969	13	Prior to June 16, 1969.
May 16–June 12	12	June 16–July 13.
June 13–July 10	11	July 14–Aug. 10.
July 11–Aug. 7	10	Aug. 11–Sept. 7.
Aug. 8–Sept. 4	9	Sept. 8–Oct. 5.
Sept. 5–Oct. 2	8	Oct. 6–Nov. 2.
Oct. 3–Oct. 30	7	Nov. 3–Nov. 30.
Oct. 31–Nov. 27	6	Dec. 1–Dec. 28.
Nov. 28–Dec. 25	5	Dec. 29, 1969–Jan. 25, 1970.
Dec. 26, 1969–Jan. 22, 1970.	4	Jan. 26–Feb. 22.
Jan. 23–Feb. 19	3	Feb. 23–Mar. 22.
Feb. 20–Mar. 19	2	Mar. 23–Apr. 19.
Mar. 20–Apr. 30, 1970	1	Apr. 20–May 31, 1970.

[1] Date storage charges start, all dates inclusive.

(b) *Warehouses operated by Eastern common carriers.* (1) Eligible barley stored in the following approved Eastern common carrier warehouse may be placed under loan or offered for sale to CCC: Pennsylvania Railroad Co., Canton Elevator, Warehouse Code 9–2151, Baltimore, Md.

(2) *Schedule of deductions for storage charges.*

Maturity date of Apr. 30, 1970	*Deduction (cents per bushel)*
(1)	(2)
Prior to June 25, 1969	16
June 25–July 14, 1969	15
July 15–Aug. 3, 1969	14
Aug. 4–Aug. 23, 1969	13
Aug. 24–Sept. 12, 1969	12
Sept. 13–Oct. 2, 1969	11
Oct. 3–Oct. 22, 1969	10
Oct. 23–Nov. 11, 1969	9
Nov. 12–Dec. 1, 1969	8
Dec. 2–Dec. 21, 1969	7
Dec. 22, 1969–Jan. 10, 1970	6
Jan. 11–Jan. 30, 1970	5
Jan. 31–Feb. 19, 1970	4
Feb. 20–Mar. 11, 1970	3
Mar. 12–Mar. 31, 1970	2
Apr. 1–Apr. 30, 1970	1

[1] Storage commence date, all dates inclusive.

[2] If producer presents evidence that elevation charges were prepaid, the storage deduction shall be reduced by 2 cents per bushel.

§ 1421.2278 Maturity of loans.

Loans mature on demand but not later than: May 31, 1970, on barley stored in the States of Alaska, Idaho, Minnesota, Montana, North Dakota, South Dakota, Oregon, Washington, Wisconsin, and Wyoming and April 30, 1970, on barley stored in all other States.

§ 1421.2279 Support rates and discounts.

(a) *Basic support rates (terminals).* Basic support rates for loan and settlement purposes for grade No. 2 or better barley stored in approved terminal warehouses at the terminal markets listed below are as follows:

Terminal market	*Rate per bushel*
Atchison, Kans.	$1.01
Kansas City, Mo.	1.01
St. Joseph, Mo.	1.01
Omaha, Nebr.	.99
Sioux City, Iowa	.99
Minneapolis, Minn.	1.04
Duluth, Minn.	1.04
Superior, Wis.	1.04
St. Paul, Minn.	1.04
Galveston, Tex.	1.11
Houston, Tex.	1.11
Port Arthur, Tex.	1.11
Baton Rouge, La.	1.11
New Orleans, La.	1.11
Beaumont, Tex.	1.11
Chicago, Ill.	1.04
St. Louis, Mo.	1.04
Milwaukee, Wis.	1.04
Memphis, Tenn.	1.03
Cairo, Ill.	1.03
Longview, Wash.	1.08
Tacoma, Wash.	1.08
Vancouver, Wash.	1.08
Seattle, Wash.	1.08
Kalama, Wash.	1.08
Portland, Oreg.	1.08
Astoria, Oreg.	1.08
San Francisco, Calif.	1.14
Stockton, Calif.	1.14
Oakland, Calif.	1.14
Los Angeles, Calif.	1.14
Long Beach, Calif.	1.14
Wilmington, Calif.	1.14
Albany, N.Y.	1.13
Philadelphia, Pa.	1.13
Baltimore, Md.	1.13
New York, N.Y.	1.13
Norfolk, Va.	1.13

(b) *Basic support rates (counties).* Basic county support rates (marketing area rates in Alaska) for loan and settlement purposes for farm-stored and country warehouse-stored barley are established for barley grading No. 2 or better and are as follows:

ALABAMA

County	*Rate per bushel*
All counties	$0.85

ALASKA

Delta	$0.96	Kenai-Sold	$1.08
Fairbanks	.93	Palmer	1.14
Glennallen	1.04	Talkeetna	1.14
Homer	1.00		

ARIZONA

Apache	$0.76	Mohave	$0.82
Cochise	.89	Navajo	.76
Coconino	.76	Pima	.92
Gila	.76	Pinal	.95
Graham	.82	Santa Cruz	.90
Greenlee	.76	Yavapai	.76
Maricopa	.94	Yuma	.95

ARKANSAS

Arkansas	$0.88	Clay	$0.88
Ashley	.85	Cleburne	.88
Baxter	.78	Cleveland	.87
Benton	.75	Columbia	.77
Boone	.77	Conway	.86
Bradley	.80	Craighead	.90
Calhoun	.79	Crawford	.76
Carroll	.76	Crittenden	.91
Chicot	.86	Cross	.91
Clark	.79	Dallas	.80

ARKANSAS—Continued

County	Rate per bushel	County	Rate per bushel
Desha	$0.87	Monroe	$0.89
Drew	.85	Montgomery	.77
Faulkner	.86	Nevada	.77
Franklin	.77	Newton	.77
Fulton	.83	Ouachita	.78
Garland	.79	Perry	.79
Grant	.80	Phillips	.90
Greene	.89	Pike	.77
Hempstead	.77	Poinsett	.91
Hot Spring	.80	Polk	.75
Howard	.77	Pope	.78
Independence	.85	Prairie	.89
Izard	.80	Pulaski	.87
Jackson	.88	Randolph	.89
Jefferson	.87	St. Francis	.91
Johnson	.77	Saline	.82
Lafayette	.77	Scott	.75
Lawrence	.88	Searcy	.77
Lee	.90	Sebastian	.76
Lincoln	.86	Sevier	.76
Little River	.77	Sharp	.83
Logan	.77	Stone	.81
Lonoke	.88	Union	.77
Madison	.75	Van Buren	.86
Marion	.77	Washington	.75
Miller	.77	White	.89
Mississippi	.91	Woodruff	.90
		Yell	.78

CALIFORNIA

Alameda	$1.01	Plumas	$0.92
Alpine	.92	Riverside	.97
Amador	1.01	Sacramento	1.01
Butte	.99	San Benito	.99
Calaveras	1.01	San Bernardino	.99
Colusa	1.00	San Diego	.96
Contra Costa	1.01	San Joaquin	1.03
El Dorado	.98	San Luis Obispo	.96
Fresno	1.00	San Mateo	1.01
Glenn	.99	Santa Barbara	.96
Humboldt	.87	Santa Clara	1.01
Imperial	.97	Santa Cruz	.98
Inyo	.87	Shasta	.90
Kern	.98	Sierra	.84
Kings	1.00	Siskiyou	.90
Lake	.97	Solano	1.01
Lassen	.86	Sonoma	1.00
Los Angeles	1.00	Stanislaus	1.02
Madera	1.02	Sutter	1.00
Marin	1.01	Tehama	.95
Mariposa	1.02	Tulare	.99
Mendocino	.93	Tuolumne	1.01
Merced	1.02	Ventura	1.00
Modoc	.90	Yolo	1.01
Monterey	.98	Yuba	1.00
Napa	1.01		
Orange	1.00		
Placer	1.00		

COLORADO

Adams	$0.78	Jackson	$0.76
Alamosa	.76	Jefferson	.78
Arapahoe	.78	Kiowa	.78
Archuleta	.76	Kit Carson	.78
Baca	.78	La Plata	.76
Bent	.78	Larimer	.78
Boulder	.78	Las Animas	.78
Chaffee	.76	Lincoln	.78
Cheyenne	.78	Logan	.78
Conejos	.76	Mesa	.76
Costilla	.76	Moffat	.76
Crowley	.78	Montezuma	.76
Custer	.78	Montrose	.76
Delta	.76	Morgan	.78
Denver	.78	Otero	.78
Dolores	.76	Ouray	.76
Douglas	.78	Phillips	.78
Eagle	.76	Pitkin	.76
Elbert	.78	Prowers	.78
El Paso	.78	Pueblo	.78
Fremont	.78	Rio Blanco	.76
Garfield	.76	Rio Grande	.76
Grand	.76	Routt	.76
Huerfano	.78	Saguache	.76

COLORADO—Continued

County	Rate per bushel	County	Rate per bushel
San Miguel	$0.76	Washington	$0.78
Sedgwick	.78	Weld	.78
Summit	.76	Yuma	.78

CONNECTICUT

All counties	$0.89

DELAWARE

All counties	$0.89

FLORIDA

All counties	$0.88

GEORGIA

All counties	$0.88

IDAHO

Ada	$0.83	Gem	$0.83
Adams	.83	Gooding	.83
Bannock	.82	Idaho	.89
Bear Lake	.81	Jefferson	.81
Benewah	.90	Jerome	.83
Bingham	.81	Kootenai	.89
Blaine	.82	Latah	.90
Boise	.83	Lemhi	.81
Bonner	.86	Lewis	.89
Bonneville	.81	Lincoln	.83
Boundary	.84	Madison	.81
Butte	.81	Minidoka	.83
Camas	.82	Nez Perce	.90
Canyon	.83	Oneida	.82
Caribou	.81	Owyhee	.83
Cassia	.83	Payette	.83
Clark	.81	Power	.82
Clearwater	.89	Shoshone	.77
Custer	.82	Teton	.81
Elmore	.83	Twin Falls	.83
Franklin	.82	Valley	.83
Fremont	.81	Washington	.83

ILLINOIS

Adams	$0.87	Johnson	$0.81
Alexander	.84	Kane	.91
Bond	.86	Kankakee	.91
Boone	.91	Kendall	.91
Brown	.86	Knox	.88
Bureau	.90	Lake	.91
Calhoun	.85	La Salle	.91
Carroll	.89	Lawrence	.82
Cass	.84	Lee	.91
Champaign	.88	Livingston	.90
Christian	.85	Logan	.87
Clark	.84	McDonough	.85
Clay	.84	McHenry	.91
Clinton	.89	McLean	.88
Coles	.86	Macon	.86
Cook	.91	Macoupin	.87
Crawford	.85	Madison	.87
Cumberland	.86	Marion	.87
De Kalb	.91	Marshall	.90
De Witt	.86	Mason	.86
Douglas	.87	Massac	.83
Du Page	.91	Menard	.86
Edgar	.84	Mercer	.88
Edwards	.85	Monroe	.86
Effingham	.85	Montgomery	.86
Fayette	.85	Morgan	.87
Ford	.89	Moultrie	.87
Franklin	.84	Ogle	.91
Fulton	.88	Peoria	.88
Gallatin	.80	Perry	.84
Greene	.87	Piatt	.86
Grundy	.91	Pike	.87
Hamilton	.83	Pope	.83
Hancock	.85	Pulaski	.84
Hardin	.80	Putnam	.89
Henderson	.87	Randolph	.84
Henry	.89	Richland	.84
Iroquois	.90	Rock Island	.89
Jackson	.84	St. Clair	.87
Jasper	.86	Saline	.80
Jefferson	.90	Sangamon	.86
Jersey	.87	Schuyler	.87
Jo Daviess	.88	Scott	.87

ILLINOIS—Continued

County	Rate per bushel	County	Rate per bushel
Shelby	$0.86	Washington	$0.84
Stark	.89	Wayne	.86
Stephenson	.90	White	.80
Tazewell	.87	Whiteside	.90
Union	.84	Will	.91
Vermilion	.88	Williamson	.86
Wabash	.85	Winnebago	.91
Warren	.88	Woodford	.88

INDIANA

Adams	$0.80	Lawrence	$0.80
Allen	.80	Madison	.81
Bartholomew	.78	Marion	.79
Benton	.84	Marshall	.83
Blackford	.82	Martin	.79
Boone	.80	Miami	.83
Brown	.77	Monroe	.83
Carroll	.83	Montgomery	.81
Cass	.83	Morgan	.78
Clark	.75	Newton	.87
Clay	.83	Noble	.80
Clinton	.82	Ohio	.76
Crawford	.85	Orange	.84
Daviess	.78	Owen	.78
Dearborn	.76	Parke	.81
Decatur	.77	Perry	.85
De Kalb	.80	Pike	.82
Delaware	.80	Porter	.86
Dubois	.86	Posey	.84
Elkhart	.82	Pulaski	.85
Fayette	.78	Putnam	.79
Floyd	.84	Randolph	.81
Fountain	.80	Ripley	.75
Franklin	.77	Rush	.78
Fulton	.83	St. Joseph	.83
Gibson	.85	Scott	.75
Grant	.81	Shelby	.78
Greene	.78	Spencer	.85
Hamilton	.80	Starke	.84
Hancock	.79	Steuben	.80
Harrison	.84	Sullivan	.84
Hendricks	.80	Switzerland	.77
Henry	.80	Tippecanoe	.83
Howard	.83	Tipton	.81
Huntington	.80	Union	.78
Jackson	.77	Vanderburgh	.89
Jasper	.86	Vermillion	.89
Jay	.80	Vigo	.89
Jefferson	.75	Wabash	.83
Jennings	.76	Warren	.85
Johnson	.78	Warrick	.87
Knox	.82	Washington	.75
Kosciusko	.82	Wayne	.80
Lagrange	.81	Wells	.80
Lake	.89	White	.85
La Porte	.84	Whitley	.82

IOWA

Adair	$0.80	Decatur	$0.77
Adams	.81	Delaware	.80
Allamakee	.82	Des Moines	.83
Appanoose	.80	Dickinson	.82
Audubon	.82	Dubuque	.81
Benton	.80	Emmet	.83
Black Hawk	.81	Fayette	.81
Boone	.80	Floyd	.83
Bremer	.82	Franklin	.82
Buchanan	.81	Fremont	.83
Buena Vista	.81	Greene	.80
Butler	.82	Grundy	.81
Calhoun	.81	Guthrie	.80
Carroll	.81	Hamilton	.81
Cass	.81	Hancock	.83
Cedar	.82	Hardin	.81
Cerro Gordo	.83	Harrison	.83
Cherokee	.83	Henry	.81
Chickasaw	.82	Howard	.83
Clarke	.79	Humboldt	.81
Clay	.82	Ida	.80
Clayton	.80	Iowa	.80
Clinton	.83	Jackson	.84
Crawford	.82	Jasper	.80
Dallas	.79	Jefferson	.80
Davis	.80	Johnson	.81

IOWA—Continued

County	Rate per bushel	County	Rate per bushel
Jones	$0.81	Polk	$0.79
Keokuk	.79	Pottawattamie	.83
Kossuth	.83	Poweshiek	.79
Lee	.84	Ringgold	.78
Linn	.81	Sac	.80
Louisa	.81	Scott	.83
Lucas	.78	Shelby	.83
Lyon	.81	Sioux	.82
Madison	.78	Story	.80
Mahaska	.79	Tama	.80
Marion	.78	Taylor	.80
Marshall	.80	Union	.80
Mills	.83	Van Buren	.80
Mitchell	.83	Wapello	.79
Monona	.82	Warren	.78
Monroe	.79	Washington	.80
Montgomery	.83	Wayne	.79
Muscatine	.83	Webster	.81
O'Brien	.81	Winnebago	.83
Osceola	.82	Winneshiek	.82
Page	.82	Woodbury	.81
Palo Alto	.82	Worth	.83
Plymouth	.82	Wright	.82
Pocahontas	.81		

KANSAS

Allen	$0.84	Linn	$0.84
Anderson	.84	Logan	.77
Atchinson	.84	Lyon	.84
Barber	.80	McPherson	.82
Barton	.80	Marion	.82
Bourbon	.84	Marshall	.84
Brown	.84	Meade	.77
Butler	.82	Miami	.84
Chase	.84	Mitchell	.82
Chautauqua	.84	Montgomery	.84
Cherokee	.84	Morris	.84
Cheyenne	.76	Morton	.74
Clark	.77	Nemaha	.84
Clay	.83	Neosho	.84
Cloud	.83	Ness	.80
Coffey	.84	Norton	.80
Comanche	.78	Osage	.84
Cowley	.82	Osborne	.81
Crawford	.84	Ottawa	.82
Decatur	.79	Pawnee	.80
Dickinson	.82	Phillips	.80
Doniphan	.84	Pottawatomie	.84
Douglas	.84	Pratt	.80
Edwards	.80	Rawlins	.77
Elk	.84	Reno	.81
Ellis	.80	Republic	.83
Ellsworth	.82	Rice	.82
Finney	.77	Riley	.84
Ford	.79	Rooks	.80
Franklin	.84	Rush	.80
Geary	.84	Russell	.80
Gove	.79	Saline	.82
Graham	.80	Scott	.78
Grant	.76	Sedgwick	.82
Gray	.78	Seward	.75
Greeley	.76	Shawnee	.84
Greenwood	.84	Sheridan	.79
Hamilton	.76	Sherman	.76
Harper	.81	Smith	.82
Harvey	.82	Stafford	.80
Haskell	.77	Stanton	.75
Hodgeman	.80	Stevens	.75
Jackson	.84	Sumner	.82
Jefferson	.84	Thomas	.77
Jewell	.82	Trego	.80
Johnson	.84	Wabaunsee	.84
Kearny	.76	Wallace	.76
Kingman	.82	Washington	.83
Kiowa	.80	Wichita	.76
Labette	.84	Wilson	.84
Lane	.79	Woodson	.84
Leavenworth	.84	Wyandotte	.84
Lincoln	.82		

KENTUCKY

County	Rate per bushel
All counties	$0.83

LOUISIANA

All parishes	$0.76

MAINE

All counties	$0.89

MARYLAND

All counties	$0.89

MASSACHUSETTS

All counties	$0.89

MICHIGAN

Alcona	$0.70	Lake	$0.75
Alger	.74	Lapeer	.78
Allegan	.79	Leelanau	.70
Alpena	.67	Lenawee	.80
Antrim	.68	Livingston	.79
Arenac	.74	Luce	.70
Baraga	.79	Mackinac	.70
Barry	.79	Macomb	.79
Bay	.76	Manistee	.74
Benzie	.72	Marquette	.76
Berrien	.83	Mason	.75
Branch	.80	Mecosta	.76
Calhoun	.83	Menominee	.77
Cass	.83	Midland	.77
Charlevoix	.66	Missaukee	.74
Cheboygan	.66	Monroe	.80
Chippewa	.70	Montcalm	.76
Clare	.75	Montmorency	.69
Clinton	.78	Muskegon	.76
Crawford	.71	Newaygo	.76
Delta	.75	Oakland	.79
Dickinson	.76	Oceana	.75
Eaton	.79	Ogemaw	.73
Emmet	.66	Ontonagon	.75
Genesee	.78	Osceola	.75
Gladwin	.76	Oscoda	.71
Gogebic	.81	Otsego	.69
Grand Traverse	.71	Ottawa	.79
Gratiot	.78	Presque Isle	.66
Hillsdale	.80	Roscommon	.73
Houghton	.76	Saginaw	.78
Huron	.76	St. Clair	.78
Ingham	.79	St. Joseph	.82
Ionia	.78	Sanilac	.76
Iosco	.72	Schoolcraft	.74
Iron	.75	Shiawassee	.78
Isabella	.76	Tuscola	.76
Jackson	.83	Van Buren	.81
Kalamazoo	.83	Washtenaw	.80
Kalkaska	.71	Wayne	.80
Kent	.78	Wexford	.74
Keweenaw	.76		

MINNESOTA

Aitkin	$0.86	Faribault	$0.91
Anoka	.89	Fillmore	.89
Becker	.80	Freeborn	.91
Beltrami	.80	Goodhue	.91
Benton	.85	Grant	.82
Big Stone	.86	Hennepin	.90
Blue Earth	.91	Houston	.88
Brown	.91	Hubbard	.81
Carlton	.88	Isanti	.87
Carver	.91	Itasca	.85
Cass	.84	Jackson	.89
Chippewa	.88	Kanabec	.85
Chisago	.87	Kandiyohi	.86
Clay	.80	Kittson	.76
Clearwater	.80	Koochiching	.77
Cottonwood	.90	Lac qui Parle	.86
Crow Wing	.84	Lake of the Woods	.78
Dakota	.91	Le Sueur	.91
Dodge	.91	Lincoln	.87
Douglas	.83		

MINNESOTA—Continued

County	Rate per bushel	County	Rate per bushel
Lyon	$0.87	Rice	$0.91
McLeod	.90	Rock	.83
Mahnomen	.79	Roseau	.77
Marshall	.78	St. Louis	.85
Martin	.90	Scott	.91
Meeker	.87	Sherburne	.87
Mille Lacs	.87	Sibley	.91
Morrison	.84	Stearns	.85
Mower	.91	Steele	.89
Murray	.88	Stevens	.83
Nicollet	.91	Swift	.84
Nobles	.86	Todd	.84
Norman	.79	Traverse	.82
Olmsted	.91	Wabasha	.91
Otter Tail	.82	Wadena	.83
Pennington	.78	Waseca	.91
Pine	.88	Washington	.90
Pipestone	.84	Watonwan	.91
Polk	.79	Wikin	.81
Pope	.83	Winona	.91
Ramsey	.89	Wright	.87
Red Lake	.79	Yellow Medicine	.90
Redwood	.91		
Renville	.91		

MISSISSIPPI

All counties	$0.85

MISSOURI

Adair	$0.81	Johnson	$0.84
Andrew	.84	Knox	.82
Atchison	.84	Laclede	.85
Audrain	.84	Lafayette	.84
Barry	.84	Lawrence	.84
Barton	.84	Lewis	.83
Bates	.84	Lincoln	.87
Benton	.82	Linn	.81
Bollinger	.88	Livingston	.83
Boone	.83	McDonald	.84
Buchanan	.84	Macon	.82
Butler	.87	Madison	.89
Caldwell	.84	Maries	.84
Callaway	.84	Marion	.84
Camden	.85	Mercer	.81
Cape Girardeau	.87	Miller	.81
Carroll	.83	Mississippi	.86
Carter	.78	Moniteau	.82
Cass	.84	Monroe	.83
Cedar	.84	Montgomery	.85
Chariton	.82	Morgan	.81
Christian	.84	New Madrid	.87
Clark	.83	Newton	.84
Clay	.84	Nodaway	.82
Clinton	.84	Oregon	.82
Cole	.83	Osage	.84
Cooper	.82	Ozark	.79
Crawford	.89	Pemiscot	.88
Dade	.84	Perry	.89
Dallas	.84	Pettis	.82
Daviess	.83	Phelps	.88
De Kalb	.84	Pike	.84
Dent	.87	Platte	.84
Douglas	.82	Polk	.84
Dunklin	.86	Pulaski	.86
Franklin	.87	Putnam	.80
Gasconade	.85	Ralls	.84
Gentry	.82	Randolph	.83
Greene	.84	Ray	.84
Grundy	.82	Reynolds	.85
Harrison	.81	Ripley	.87
Henry	.84	St. Charles	.90
Hickory	.84	St. Clair	.84
Holt	.84	St. Francois	.90
Howard	.83	Ste. Genevieve	.90
Howell	.80	St. Louis	.91
Iron	.89	Saline	.83
Jackson	.84	Schuyler	.81
Jasper	.84	Scotland	.82
Jefferson	.91	Scott	.87

MISSOURI—Continued

County	Rate per bushel	County	Rate per bushel
Shannon	$0.78	Vernon	$0.84
Shelby	.83	Warren	.88
Stoddard	.87	Washington	.90
Stone	.83	Wayne	.87
Sullivan	.81	Webster	.83
Taney	.82	Worth	.83
Texas	.82	Wright	.82

MONTANA

Beaverhead	$0.71	McCone	$0.62
Big Horn	.60	Madison	.75
Blaine	.62	Meagher	.71
Broadwater	.74	Mineral	.77
Carbon	.68	Missoula	.77
Carter	.64	Musselshell	.66
Cascade	.70	Park	.74
Chouteau	.68	Petroleum	.65
Custer	.63	Phillips	.58
Daniels	.61	Pondera	.69
Dawson	.63	Powder River	.62
Deer Lodge	.75	Powell	.75
Fallon	.64	Prairie	.62
Fergus	.67	Ravalli	.74
Flathead	.79	Richland	.63
Gallatin	.75	Roosevelt	.64
Garfield	.62	Rosebud	.63
Glacier	.69	Sanders	.77
Golden Valley	.68	Sheridan	.63
Granite	.74	Silver Bow	.75
Hill	.65	Stillwater	.68
Jefferson	.74	Sweet Grass	.71
Judith Basin	.67	Teton	.69
Lake	.74	Toole	.68
Lewis and Clark	.69	Treasure	.65
Liberty	.67	Valley	.60
Lincoln	.79	Wheatland	.69
		Wibaux	.65
		Yellowstone	.68

NEBRASKA

Adams	$0.82	Holt	$0.82
Antelope	.83	Hooker	.76
Arthur	.75	Howard	.83
Banner	.70	Jefferson	.84
Blaine	.78	Johnson	.84
Boone	.83	Kearney	.81
Box Butte	.73	Keith	.75
Boyd	.83	Keya Paha	.79
Brown	.79	Kimball	.72
Buffalo	.82	Knox	.83
Burt	.83	Lancaster	.84
Butler	.83	Lincoln	.77
Cass	.84	Logan	.78
Cedar	.83	Loup	.80
Chase	.74	McPherson	.77
Cherry	.77	Madison	.83
Cheyenne	.72	Merrick	.83
Clay	.82	Morrill	.72
Colfax	.83	Nance	.83
Cuming	.83	Nemaha	.84
Custer	.80	Nuckolls	.82
Dakota	.83	Otoe	.84
Dawes	.73	Pawnee	.84
Dawson	.80	Perkins	.75
Deuel	.74	Phelps	.80
Dixon	.83	Pierce	.83
Dodge	.83	Platte	.83
Douglas	.83	Polk	.83
Dundy	.74	Red Willow	.78
Fillmore	.83	Richardson	.84
Franklin	.80	Rock	.79
Frontier	.78	Saline	.84
Furnas	.79	Sarpy	.83
Gage	.84	Saunders	.83
Garden	.73	Scotts Bluff	.71
Garfield	.81	Seward	.83
Gosper	.80	Sheridan	.74
Grant	.74	Sherman	.82
Greeley	.83	Sioux	.72
Hall	.83	Stanton	.83
Hamilton	.83	Thayer	.83
Harlan	.80	Thomas	.78
Hayes	.75	Thurston	.83
Hitchcock	.76	Valley	.81

NEBRASKA—Continued

County	Rate per bushel	County	Rate per bushel
Washington	$0.80	Wheeler	$0.83
Wayne	.83	York	.83
Webster	.81		

NEVADA

All counties	$0.88

NEW HAMPSHIRE

All counties	$0.89

NEW JERSEY

All counties	$0.89

NEW MEXICO

Bernalillo	$0.77	Mora	$0.77
Catron	.77	Otero	.77
Chaves	.79	Quay	.81
Colfax	.77	Rio Arriba	.76
Curry	.82	Roosevelt	.81
De Baca	.78	Sandoval	.77
Dona Ana	.77	San Juan	.76
Eddy	.77	San Miguel	.77
Grant	.77	Santa Fe	.77
Guadalupe	.77	Sierra	.77
Harding	.78	Socorro	.77
Hidalgo	.77	Taos	.77
Lea	.80	Torrance	.77
Lincoln	.77	Union	.80
Luna	.77	Valencia	.77
McKinley	.77		

NEW YORK

All counties	$0.89

NORTH CAROLINA

All counties	$0.89

NORTH DAKOTA

Adams	$0.69	McKenzie	$0.66
Barnes	.78	McLean	.71
Benson	.74	Mercer	.70
Billings	.69	Morton	.71
Bottineau	.70	Mountrail	.69
Bowman	.68	Nelson	.75
Burke	.69	Oliver	.71
Burleigh	.73	Pembina	.75
Cass	.78	Pierce	.73
Cavalier	.74	Ramsey	.74
Dickey	.77	Ransom	.78
Divide	.68	Renville	.69
Dunn	.69	Richland	.80
Eddy	.75	Rolette	.72
Emmons	.72	Sargent	.79
Foster	.76	Sheridan	.73
Golden Valley	.65	Sioux	.70
Grand Forks	.77	Slope	.69
Grant	.69	Stark	.69
Griggs	.77	Steele	.78
Hettinger	.69	Stutsman	.77
Kidder	.74	Towner	.73
La Moure	.76	Traill	.78
Logan	.74	Walsh	.75
McHenry	.72	Ward	.70
McIntosh	.74	Wells	.74
		Williams	.68

OHIO

Adams	$0.78	Darke	$0.82
Allen	.80	Defiance	.79
Ashland	.80	Delaware	.80
Ashtabula	.83	Erie	.80
Athens	.80	Fairfield	.80
Auglaize	.80	Fayette	.78
Belmont	.80	Franklin	.80
Brown	.78	Fulton	.79
Butler	.78	Gallia	.78
Carroll	.80	Geauga	.83
Champaign	.78	Greene	.78
Clark	.78	Guernsey	.80
Clermont	.78	Hamilton	.78
Clinton	.78	Hancock	.80
Columbiana	.81	Hardin	.80
Coshocton	.80	Harrison	.80
Crawford	.80	Henry	.79
Cuyahoga	.80	Highland	.78

OHIO—Continued

County	Rate per bushel	County	Rate per bushel
Hocking	$0.80	Paulding	$0.80
Holmes	.80	Perry	.80
Huron	.80	Pickaway	.79
Jackson	.78	Pike	.78
Jefferson	.82	Portage	.80
Knox	.80	Preble	.78
Lake	.82	Putnam	.80
Lawrence	.78	Richland	.80
Licking	.80	Ross	.79
Logan	.79	Sandusky	.80
Lorain	.80	Sciota	.78
Lucas	.79	Seneca	.80
Madison	.79	Shelby	.80
Mahoning	.83	Stark	.80
Marion	.80	Summit	.80
Medina	.80	Trumball	.83
Meigs	.78	Tuscarawas	.80
Mercer	.80	Union	.80
Miami	.80	Van Wert	.80
Monroe	.80	Vinton	.80
Montgomery	.78	Warren	.78
Morgan	.80	Washington	.80
Morrow	.80	Williams	.80
Muskingum	.80	Wood	.80
Noble	.80	Wyandot	.80
Ottawa	.80		

OKLAHOMA

Adair	$0.81	Le Flore	$0.78
Alfalfa	.81	Lincoln	.82
Atoka	.82	Logan	.82
Beaver	.81	Love	.83
Beckham	.82	McClain	.82
Blaine	.82	McCurtain	.78
Bryan	.81	McIntosh	.82
Caddo	.82	Major	.81
Canadian	.82	Marshall	.82
Carter	.82	Mayes	.83
Cherokee	.82	Murray	.82
Choctaw	.78	Muskogee	.82
Cimarron	.81	Noble	.81
Cleveland	.82	Nowata	.84
Coal	.82	Okfuskee	.82
Comanche	.82	Oklahoma	.82
Cotton	.82	Okmulgee	.82
Craig	.84	Osage	.82
Creek	.82	Ottawa	.84
Custer	.81	Pawnee	.81
Delaware	.84	Payne	.82
Dewey	.81	Pittsburg	.82
Ellis	.81	Pontotoc	.82
Garfield	.82	Pottawatomie	.82
Garvin	.82	Pushmataha	.78
Grady	.82	Rogers Mills	.79
Grant	.81	Rogers	.84
Greer	.82	Seminole	.82
Harmon	.82	Sequoyah	.80
Harper	.80	Stephens	.82
Haskell	.79	Texas	.81
Hughes	.82	Tillman	.82
Jackson	.82	Tulsa	.83
Jefferson	.82	Wagoner	.82
Johnston	.82	Washington	.84
Kay	.81	Washita	.82
Kingfisher	.82	Woods	.80
Kiowa	.82	Woodward	.81
Latimer	.78		

OREGON

Baker	$0.90	Jefferson	$0.95
Benton	.94	Josephine	.84
Clackamas	.95	Klamath	.90
Clatsop	.89	Lake	.89
Columbia	.91	Lane	.89
Coos	.81	Lincoln	.85
Crook	.92	Linn	.93
Curry	.83	Malheur	.83
Deschutes	.92	Marion	.96
Douglas	.84	Morrow	.94
Gilliam	.95	Multnomah	.95
Grant	.94	Polk	.95
Harney	.80	Sherman	.96
Hood River	.97	Tillamook	.97
Jackson	.84	Umatilla	.93

OREGON—Continued

County	Rate per bushel	County	Rate per bushel
Union	$0.91	Washington	$0.97
Wallowa	.89	Wheeler	.94
Wasco	.97	Yamhill	.96

PENNSYLVANIA

All counties	$0.89

RHODE ISLAND

All counties	$0.89

SOUTH CAROLINA

All counties	$0.89

SOUTH DAKOTA

Aurora	$0.81	Jackson	$0.78
Beadle	.83	Jerauld	.82
Bennett	.75	Jones	.80
Bon Homme	.82	Kingsbury	.83
Brookings	.86	Lake	.82
Brown	.82	Lawrence	.73
Brule	.81	Lincoln	.82
Buffalo	.82	Lyman	.81
Butte	.73	McCook	.82
Campbell	.77	McPherson	.79
Charles Mix	.80	Marshall	.79
Clark	.84	Meade	.73
Clay	.83	Mellette	.79
Codington	.84	Miner	.83
Corson	.73	Minnehaha	.82
Custer	.73	Moody	.86
Davison	.82	Pennington	.76
Day	.84	Perkins	.72
Deuel	.88	Potter	.82
Dewey	.76	Roberts	.83
Douglas	.80	Sanborn	.82
Edmunds	.82	Shannon	.74
Fall River	.71	Spink	.84
Faulk	.83	Stanley	.81
Grant	.85	Sully	.82
Gregory	.81	Todd	.79
Haakon	.78	Tripp	.80
Hamlin	.84	Turner	.81
Hand	.82	Union	.83
Hanson	.82	Walworth	.80
Harding	.73	Washabaugh	.78
Hughes	.81	Yankton	.81
Hutchinson	.81	Zieback	.74
Hyde	.82		

TENNESSEE

Shelby	$0.88
All other counties	.86

TEXAS

Anderson	$0.94	Clay	$0.85
Archer	.83	Cochran	.82
Armstrong	.82	Coke	.82
Atascosa	.91	Coleman	.86
Austin	.99	Collin	.88
Bailey	.82	Collingsworth	.82
Bandera	.90	Comal	.93
Baylor	.82	Comanche	.87
Bee	.93	Concho	.87
Bell	.93	Cooke	.86
Bexar	.92	Coryell	.92
Blanco	.93	Cottle	.82
Borden	.82	Crane	.78
Bosque	.91	Crockett	.76
Bowie	.86	Crosby	.82
Brazoria	.99	Culberson	.73
Brazos	.97	Dallam	.81
Brewster	.73	Dallas	.90
Briscoe	.82	Dawson	.82
Brown	.87	Deaf Smith	.82
Burleson	.96	Delta	.86
Burnet	.91	Denton	.87
Callahan	.85	De Witt	.95
Cameron	.85	Dickens	.82
Camp	.88	Donley	.82
Carson	.82	Eastland	.86
Cass	.87	Ector	.81
Castro	.82	Edwards	.82
Chambers	.96	Ellis	.90
Cherokee	.94	El Paso	.72
Childress	.82	Erath	.87
Falls	.94	Milam	$0.95
Fannin	.86	Mills	.90
Fayette	.96	Mitchell	.82
Fisher	.82	Montague	.85
Floyd	.82	Montgomery	.99
Foard	.82	Moore	.81
Fort Bend	.99	Morris	.88
Franklin	.88	Motley	.82
Freestone	.94	Nacogdoches	.93
Gaines	.82	Navarro	.92
Garza	.82	Newton	.96
Gillespie	.88	Nolan	.82
Goliad	.96	Ochiltree	.81
Gonzales	.96	Oldham	.82
Gray	.82	Orange	.96
Grayson	.86	Palo Pinto	.86
Gregg	.90	Panola	.92
Grimes	.97	Parker	.89
Guadalupe	.93	Parmer	.82
Hale	.82	Pecos	.74
Hall	.82	Polk	.97
Hamilton	.89	Potter	.82
Hansford	.81	Presidio	.72
Hardeman	.82	Rains	.90
Hardin	.96	Randall	.82
Harris	.99	Reagan	.76
Harrison	.89	Red River	.85
Hartley	.81	Reeves	.74
Haskell	.82	Roberts	.81
Hays	.94	Robertson	.95
Hemphill	.81	Rockwall	.87
Henderson	.92	Runnels	.85
Hidalgo	.86	Rusk	.91
Hill	.92	Sabine	.93
Hockley	.82	San Augustine	.93
Hood	.88	San Jacinto	.98
Hopkins	.86	San Saba	.87
Houston	.96	Schleicher	.77
Howard	.82	Scurry	.82
Hudspeth	.73	Shackelford	.85
Hunt	.87	Shelby	.93
Hutchinson	.81	Sherman	.81
Irion	.77	Smith	.92
Jack	.86	Somervell	.88
Jackson	.96	Starr	.85
Jasper	.96	Stephens	.86
Jeff Davis	.73	Sterling	.79
Jefferson	.97	Stonewall	.82
Jim Wells	.91	Sutton	.76
Johnson	.90	Swisher	.82
Jones	.83	Tarrant	.90
Karnes	.93	Taylor	.83
Kaufman	.89	Terrell	.77
Kendall	.89	Terry	.82
Kenedy	.88	Throckmorton	.84
Kent	.82	Titus	.88
Kerr	.88	Tom Green	.82
Kimble	.87	Travis	.94
King	.82	Trinity	.97
Kinney	.86	Tyler	.96
Knox	.82	Upshur	.90
Lamar	.86	Upton	.74
Lamb	.82	Uvalde	.88
Lampasas	.91	Val Verde	.83
Leon	.95	Van Zandt	.90
Liberty	.99	Victoria	.96
Limestone	.94	Walker	.98
Lipscomb	.81	Waller	.99
Live Oak	.92	Ward	.77
Llano	.91	Washington	.97
Loving	.74	Wharton	.98
Lubbock	.82	Wheeler	.82
Lynn	.82	Wichita	.83
McCulloch	.87	Wilbarger	.82
McLennan	.93	Willacy	.86
Madison	.97	Williamson	.94
Marion	.88	Wilson	.92
Martin	.82	Winkler	.80
Mason	.87	Wise	.88
Maverick	.85	Wood	.89
Medina	.90	Yoakum	.82
Menard	.87	Young	.86
Midland	.81		

UTAH

County	Rate per bushel	County	Rate per bushel
Beaver	$0.81	Piute	$0.81
Box Elder	.86	Rich	.86
Cache	.86	Salt Lake	.86
Carbon	.81	San Juan	.81
Daggett	.81	Sanpete	.81
Davis	.86	Sevier	.81
Duchesne	.81	Summit	.81
Emery	.81	Tooele	.86
Garfield	.81	Uintah	.81
Grand	.81	Utah	.81
Iron	.81	Wasatch	.81
Juab	.81	Washington	.81
Kane	.81	Wayne	.81
Millard	.81	Weber	.86
Morgan	.86		

VERMONT

All counties	$0.89

VIRGINIA

All counties	$0.89

WASHINGTON

Adams	$0.93	Lewis	$0.90
Asotin	.90	Lincoln	.91
Benton	.94	Mason	.89
Chelan	.93	Okanogan	.91
Clallam	.83	Pacific	.89
Clark	.96	Pend Oreille	.86
Columbia	.93	Pierce	.94
Cowlitz	.93	San Juan	.91
Douglas	.92	Skagit	.91
Ferry	.88	Skamania	.97
Franklin	.93	Snohomish	.93
Garfield	.93	Spokane	.90
Grant	.92	Stevens	.87
Grays Harbor	.89	Thurston	.90
Island	.93	Wahkiakum	.93
Jefferson	.84	Walla Walla	.93
King	.95	Whatcom	.91
Kitsap	.88	Whitman	.91
Kittitas	.96	Yakima	.95
Klickitat	.96		

WEST VIRGINIA

All counties	$0.86

WISCONSIN

Adams	$0.80	Marathon	$0.81
Ashland	.84	Marinette	.78
Barron	.85	Marquette	.81
Bayfield	.84	Menominee	.80
Brown	.81	Milwaukee	.88
Buffalo	.85	Monroe	.81
Burnett	.87	Oconto	.79
Calumet	.82	Oneida	.77
Chippewa	.84	Outagamie	.81
Clark	.82	Ozaukee	.84
Columbia	.82	Pepin	.86
Crawford	.80	Pierce	.87
Dane	.83	Polk	.87
Dodge	.83	Portage	.80
Door	.76	Price	.82
Douglas	.89	Racine	.88
Dunn	.86	Richland	.81
Eau Claire	.85	Rock	.84
Florence	.77	Rusk	.84
Fond du Lac	.83	St. Croix	.87
Forest	.78	Sauk	.81
Grant	.80	Sawyer	.85
Green	.83	Shawano	.80
Green Lake	.82	Sheboygan	.83
Iowa	.81	Taylor	.82
Iron	.83	Trempealeau	.83
Jackson	.83	Vernon	.81
Jefferson	.84	Vilas	.77
Juneau	.81	Walworth	.86
Kenosha	.90	Washburn	.87
Kewaunee	.78	Washington	.84
La Crosse	.82	Waukesha	.84
Lafayette	.81	Waupaca	.81
Langlade	.78	Waushara	.81
Lincoln	.77	Winnebago	.82
Manitowoc	.82	Wood	.82

WYOMING

County	Rate per bushel	County	Rate per bushel
Albany	$0.78	Natrona	$0.80
Big Horn	.78	Niobrara	.73
Campbell	.65	Park	.78
Carbon	.80	Platte	.75
Converse	.71	Sheridan	.63
Crook	.66	Sublette	.80
Fremont	.80	Sweetwater	.80
Goshen	.75	Teton	.81
Hot Springs	.80	Uinta	.80
Johnson	.66	Washakie	.78
Laramie	.76	Weston	.72
Lincoln	.80		

(c) *Discounts.* The basic support rate shall be adjusted as applicable by discounts as follows:

	Discount (cents per bushel)
Reason:	
Class—Mixed Barley	2
Grade:	
No. 3	3
No. 4	6
No. 5	15
Total damage (percent): [1]	
10.1–11	1
11.1–12	2
12.1–13	3
13.1–14	4
14.1–15	5
15.1–16	6
16.1–17	7
17.1–18	8
18.1–19	9
19.1 and above	10
Garlicky	10
Weed Control Law (where required by § 1421.74)	10

[1] Not applicable to barley of the class Western Barley.

Other factors: Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of the barley, such as (but not limited to) thin barley, moisture, foreign material, test weight, heat damage, musty, sour, smutty, stained, weevily, ergoty, and bleached. Such discounts will be established not later than the time delivery of barley to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at ASCS county offices approximately 1 month prior to the loan maturity date.

NOTE: Discounts are cumulative except only one grade discount shall be applied. The discounts for total damage in excess of 10 percent are in addition to the discount of 15 cents for barley grading No. 5. For the purpose of applying discounts, factors which cause barley of the subclass Malting Barley or Blue Malting Barley to have a lower numerical grade than if the barley were graded under a different subclass shall be disregarded.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 11, 1969.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 69-7140; Filed, June 17, 1969; 8:45 a.m.]

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 5]

PART 1481—RICE

Subpart—Rice Export Program (GR–369)

MISCELLANEOUS AMENDMENTS

The terms and conditions of the Rice Export Program (GR–369) Revision III (30 F.R. 778 as amended by 31 F.R. 7396, 31 F.R. 11309, 31 F.R. 11449 and 32 F.R. 5462) are hereby amended as follows:

1. In § 1481.101, the last two sentences are changed to read as follows:

§ 1481.101 General statement.

* * * This program will be administered in Washington, D.C., by the Export Marketing Service, U.S. Department of Agriculture and in the field by the Kansas City Agricultural Stabilization and Conservation Service Commodity Office. Information pertaining to the program may be obtained from the offices listed in 1481.140 and 1481.161.

2. In § 1481.106, paragraph (a) is amended by substituting for the first sentence the following:

§ 1481.106 Submission of offers.

(a) *Place and Time.* An exporter who wishes to receive an export payment under this subpart on an export of rice (other than an export of rice made pursuant to a sale under Public Law 480) should normally submit offers in writing, such as by telegram, teletypewriter, or telex although telephone may be used. Telephoned offers must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter, or telex. Offers must be submitted to the office specified in § 148.161. * * *

3. In § 1481.106, paragraph (b) is amended by substituting for the language immediately preceding subparagraph (1) the following:

§ 1481.106 Submission of offers.

* * * * *

(b) *Form.* An offer including written confirmation of a telephoned offer shall be submitted in the name of the exporter, shall set forth his full business name and address, shall be signed or in the case of a telephoned offer, transmitted by the exporter or a person authorized to make contracts on behalf of the exporter and shall state the following:

* * * * *

§ 1481.107 [Amended]

4. Section 1481.107 is amended by adding after the second sentence the following: "In the case of an offer submitted by telephone, Form CCC-411 will not be forwarded to the exporter until the written confirmation of the exporter's offer has been received by CCC."

5. In § 1481.108, the first sentence and paragraphs (a) (2), (3), and (4), and (c) (7) are revised to read as follows:

§ 1481.108 Notice of sale.

An exporter who wishes to receive an export payment under this program on an export of rice pursuant to a sale under a purchase authorization under Public Law 480 must file an offer consisting of a notice of sale with the office specified in 1481.161.

(a) *Time of filing.* (1) * * *

(2) The notice of sale should normally be filed by telegram, teletypewriter, or telex although telephone may be used. Telephoned notices of sale must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter, or telex.

(3) In order for the exporter to be assured of the payment rate in effect on the date the notice of sale is filed, the notice of sale must be filed or the telephone call made by 2:30 p.m. (e.s.t. or e.d.t. whichever is in effect) on such date. A notice of sale filed or a telephone call made after 2:30 p.m. will be considered as having been made on the following day for the purpose of determining the payment rate applicable to the rice exported under this program.

(4) The time of filing the notice of sale will be considered to be as follows:

(i) In case of a telephonic notice, the time transmission of the telephonic message to the Contracting Officer, CCC, begins.

(ii) In case the notice is filed by telegram, the time the message is accepted by the dispatching telegraph office. CCC will accept as the time of filing the time which appears on the telegram.

(iii) In case the notice is filed by teletypewriter or telex, the time transmission of the message to CCC begins.

(iv) If the notice is otherwise filed in writing, the time the notice is received by the office specified in § 1481.161.

* * * * *

(c) *Determination of date of sale.* * * *

(7) In any unusual cases involving factors other than those described above, an exporter should make a written request for a determination in writing from the office specified in § 1481.161 in advance of making the sale as to the effect of such factors on the time of sale.

§ 1481.109 [Amended]

6. Section 1481.109 is amended by adding after the second sentence of paragraph (a) the following: "In the case of a notice of sale filed by telephone, Form CCC–420 will not be forwarded to the exporter until written confirmation of the exporter's notice of sale has been received by CCC."

7. In § 1481.110, subparagraphs (1) and (2) of paragraph (a), are revised to read as follows:

§ 1481.110 Declaration of sale and evidence of sale.

(a) *Time of submission and required copies.* (1) If the sale is under Public Law 480, the exporter shall prepare a Form CCC–421 "Declaration of Sale" and should mail or deliver it to the office specified in § 1481.161 as soon as possible after receiving the notice of registration of sale from CCC.

(2) The declaration of sale must be submitted in an original and four copies. The original must be signed in an original signature by the exporter or his authorized representative. Two copies of the declaration of sale will be returned to the exporter signed by a Contracting Officer, CCC, confirming approval of the sale under this program for an export payment and approval of the sale for financing under the regulations issued pursuant to Public Law 480.

* * * * *

§§ 1481.111, 1481.113, 1481.116, 1481.128, 1481.129, 1481.130, 1481.136, 1481.137 [Amended]

8. Sections 1481.111(a)(1), (b) and (c)(1), 1481.113(b), 1481.116(a)(7), 1481.128(a), 1481.129(a)(7), 1481.130(b), 1481.136 and 1481.137(a) are amended by substituting the words "Assistant Sales Manager" for the words "Vice President, CCC."

§ 1481.156 [Revoked]

9. Section 1481.156 *Vice President* is revoked.

10. Section 1481.157 is amended to read as follows:

§ 1481.157 General sales manager.

"General Sales Manager" means the General Sales Manager of the Export Marketing Service, or his designee.

11. The following new § 1481.160 is added:

§ 1481.160 Assistant sales manager.

"Assistant Sales Manager" means the Assistant Sales Manager, Commodity Exports, Export Marketing Service, or his designee.

12. The following new § 1481.161 is added:

§ 1481.161 Place of submission of offers and notices of sales.

(a) Offers to export rice, including offers consisting of notices of sale under Public Law 480 and related reports required to be submitted under this subpart, unless otherwise specified in these regulations, should be addressed as follows:

Chief, Contract Services Branch, Grain Division, Commodity Exports, Export Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) Delivery to the above office of telegraphic offers to export and notices of sale under Public Law 480 will be expedited if addressed as follows:

Substaff, USDA, (AG) Washington, D.C., TWX 710 822 9424 or 710 822 9425, Telex 089 491.

(c) Exporters calling the office in paragraph (a) of this section by long distance telephone may do so by direct dialing. The long distance area number for Washington, D.C., is 202. The telephone numbers of the office are DU8-7305, 8-7306, 8-3363, or 8-3364.

(Sec. 5, 62 Stat. 1072, sec. 407, 63 Stat. 1055, as amended, sec. 201(a), 70 Stat. 188; 15 U.S.C. 714c, 7 U.S.C. 1427, 1851)

Effective date: This amendment shall become effective at 2:31 p.m., e.d.t., on June 17, 1969.

Signed at Washington, D.C., on June 12, 1969.

CLIFFORD G. PULVERMACHER,
Vice President, Commodity Credit Corporation and General Sales Manager, Export Marketing Service.

[F.R. Doc. 69-7185; Filed, June 13, 1969; 1:43 p.m.]

[Amdt. 3]

PART 1483—WHEAT AND FLOUR

Subpart—Wheat Export Program (GR-345) Terms and Conditions

MISCELLANEOUS AMENDMENTS

The terms and conditions of the Wheat Export Program (GR-345) (32 F.R. 14739 and 32 F.R. 16251 as amended by 33 F.R. 10185 and 34 F.R. 6768) are hereby amended as follows:

§ 1483.111 [Amended]

1. Section 1483.111 is amended by changing the first sentence of paragraph (a) to read as follows:

(a) An offer for the exportation of wheat described in 1483.110 should normally be filed in writing, such as by telegram, teletypewriter, or telex, although telephone may be used. Telephoned offers must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter, or telex. * * *

2. Section 1483.111 is further amended by changing in paragraph (b) the language immediately preceding subparagraph (1) and by changing paragraph (e)(2) to read as follows:

(b) *Form.* An offer including a written confirmation of a telephoned offer shall be submitted in the name of the exporter, shall set forth his full business name and address, shall be signed or in the case of a telephoned offer, transmitted by the exporter or a person authorized to make contracts on behalf of the exporter and shall state the following:

* * * * *

(e) * * *

(2) A request to modify an offer or withdraw an offer should normally be filed in writing, such as by telegram, teletypewriter, or telex although telephone may be used. Telephoned requests must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter, or telex.

3. Section 1483.111 is further amended by changing the language in the second set of parentheses in paragraph (e)(1) to read: "(if otherwise made in writing or by telephone)."

§ 1483.112 [Amended]

4. Section 1483.112 is amended by adding after the second sentence of paragraph (a) the following: "In the case of an offer submitted by telephone, Form CCC-342 will not be forwarded to the exporter until the written confirmation of the exporter's offer has been received by CCC."

§ 1483.151 [Amended]

5. Section 1483.151 is amended by changing the first sentence of paragraph (a) to read as follows:

(a) An offer for the exportation of Durum wheat should normally be filed in writing, such as by telegram, teletypewriter, or telex although telephone may be used. Telephoned offers must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter, or telex. * * *

6. Section 1483.151 is further amended by changing in paragraph (b) the language immediately preceding subparagraph (1) and by changing paragraph (e)(2) to read as follows:

(b) *Form.* An offer including a written confirmation of a telephoned offer shall be submitted in the name of the exporter, shall set forth his full business name and address, shall be signed or in the case of a telephoned offer, transmitted by the exporter or a person authorized to make contracts on behalf of the exporter and shall state the following:

* * * * *

(e) * * *

(2) A request to modify an offer or withdraw an offer should normally be filed in writing, such as by telegram, teletypewriter, or telex although telephone may be used. Telephoned requests must be confirmed immediately thereafter in writing, such as by telegram, teletypewriter, or telex.

§ 1483.152 [Amended]

7. Section 1483.152 is amended by adding after the second sentence of paragraph (a) the following: "In the case of an offer submitted by telephone, Form CCC-422 will not be forwarded to the exporter until the written confirmation of the exporter's offer has been received by CCC."

(Secs. 4, 5, 62 Stat. 1070, 1072, sec. 102, 68 Stat. 454, as amended, sec. 407, 63 Stat. 1051, as amended; 15 U.S.C. 714 b, c, 7 U.S.C. 1702, 7 U.S.C. 1427)

Effective date: This amendment shall become effective at 3:31 p.m., e.d.t., on June 16, 1969.

Signed at Washington, D.C., on June 6, 1969.

CLIFFORD G. PULVERMACHER,
General Sales Manager, Export Marketing Service.

[F.R. Doc. 69-7186; Filed, June 13, 1969; 1:43 p.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 69-SW-26; Amdt. 39-781]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 206A Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring: (1)

A daily visual inspection for tail boom cracks using a three-power or higher magnifying glass; (2) a 25-hour periodic inspection for tail boom cracks using a three-power or higher magnifying glass along with necessary tail rotor balance; (3) replacement of the magnesium tail boom whenever certain cracks are found; and, (4) replacement, within specified limitations, of magnesium tail booms having or accumulating 500 hours' time in service on Bell Model 206A helicopters was published in 34 F.R. 7286.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

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

BELL. Applies to Bell Model 206A helicopters, Serials Nos. 4 through 153, equipped with the magnesium tail boom assembly, Part No. 206-031-004-1 or -3.

Compliance required as indicated.

To prevent failure of the magnesium tail boom due to fatigue cracks, accomplish the following:

(a) Before the first flight of each day after the effective date of this AD:

(1) Remove the tail rotor drive shaft cover.

(2) Inspect the skin adjacent to the rivet holes for cracks in the following areas, using a 3-power or higher magnifying glass:

(i) The tab attachment of the drive shaft cover to the tail boom.

(ii) The area adjacent to the rivnut attachment of the tail rotor gear box fairing to the tail boom.

(iii) The horizontal stabilizer attachment fittings.

(3) Repair tail booms with only one skin crack less than 1 inch in length if the crack is located in an area described in (a) (2) (ii) or (iii) above, by stop drilling and deburring the holes.

(4) Remove and replace tail booms with any other skin crack, in accordance with paragraphs 8-37 through 8-47 of the Model 206A Maintenance and Overhaul Instructions.

(b) Within 25 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 25 hours' time in service from the last inspection:

(1) Remove the tail rotor drive shaft cover and the gear box fairing.

(2) Inspect the skin adjacent to the rivet holes for cracks in the following areas, using a 3-power or higher magnifying glass:

(i) The tab attachment of the driveshaft cover to the tail boom.

(ii) The rivnut attachments of the tail rotor gear box fairing to the tail boom.

(iii) The horizontal stablizer attachment fittings.

(3) Repair tail booms with only one skin crack less than 1 inch in length if the crack is located in an area described in (b) (2) (ii) or (iii) above, by stop drilling and deburring the holes.

(4) Remove and replace tail booms with any other skin crack, in accordance with paragraphs 8-37 through 8-47 of the Model 206A Maintenance and Overhaul Instructions, before further flight.

(5) Inspect tail rotor balance and balance, if necessary, in accordance with paragraph 2A on Page 2 of Bell Service Bulletin No. 206A-7 dated August 22, 1968, or later FAA-approved revision or in accordance with an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration.

(c) Remove and replace magnesium tail booms with 400 or more hours' time in service on the effective date of this AD within 100 hours' time in service therefrom.

(d) Remove and replace magnesium tail booms with less than 400 hours' time in service on the effective date of this AD, prior to accumulating 500 hours' time in service.

(e) Remove and replace all subsequent replacement magnesium tail booms prior to accumulating 500 hours' time in service.

(Bell Helicopter Co. Service Bulletin No. 206A-7 dated Aug. 22, 1968, pertains to this subject.)

This amendment becomes effective July 21, 1969.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423; sec. 6 (c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on June 10, 1969.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 69-7163; Filed, June 17, 1969; 8:46 a.m.]

[Airworthiness Docket No. 69-WE-11-AD; Amdt. 39-780]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Airplane Co. Model 737 Series

Cracks have occurred in lugs of the aileron tab mast fittings and in the flanges of the aileron tab hinge fittings of Boeing 737 Series aircraft. The magnesium mast fitting failures have been attributed to stress corrosion caused by excessive clamp-up of the lugs during installation of the tab control rods. The magnesium tab hinge fitting failures have been attributed to static bending stresses developed during installation; also, the fixed length of the tab control rods may have contributed to the mast failures by causing a prestress in the lugs. Failure of the lugs or hinge fittings may result in trim tab flutter, which, in turn, may induce flutter in the aileron and wing. 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 initial and repetitive inspections of the aileron tab mast fittings, aileron tab hinge fittings, replacement of the mast and hinge fittings, and installation of adjustable tab control rods.

Since a situation exists that requires immediate adoption of the regulation, it is found that notice and public procedure hereon are 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 (31 F.R. 13697), § 39.13 of Part 39 to the Federal Aviation Regulations is amended by adding the following airworthiness directive:

BOEING. Applies to Boeing Model 737-100, 737-200, and 737-200C Series Airplanes.

Compliance required as indicated, unless already accomplished.

To detect cracking in the lugs of the aileron tab mast fittings and flanges of the aileron tab hinge fittings of Boeing Model 737 Series airplanes, and provide for the installation of parts to correct this condition, accomplish the following, or an equivalent inspection procedure and parts installation approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(a) Within 25 hours' time in service after the effective date of this AD, visually inspect the aileron tab mast fittings for cracks in the lugs and for an excessive gap between the fitting lugs and the tab control rod ends in accordance with Boeing Alert Service Bulletin No. 57-1040, dated May 26, 1969 (hereinafter referred to as Boeing ASB 57-1040) or later FAA-approved revisions.

NOTE: Designated 737 Series aircraft listed in Group II, Boeing ASB 57-1040, delivered after April 15, 1969, have had the gaps shimmed and nuts torqued by the manufacturer and may therefore be inspected within the time intervals listed in Step (4).

(1) If cracks are found, replace the mast fitting with a new part in accordance with Boeing ASB 57-1040 (or later FAA-approved revision) before further flight.

(2) If no cracks are found, measure gap between mast fitting lugs and tab control rod end fitting, shim, and torque nut in accordance with instructions and limits specified in Boeing ASB 57-1040, or later FAA-approved revisions.

(3) If gaps between the fitting lugs and the tab control rod ends exceed those limits specified in Boeing ASB No. 57-1040, or later FAA-approved revisions, perform either (A) or (B) as follows:

(A) Shim the gaps and torque the nuts to the limits specified in the Alert Service Bulletin.

(B) Repeat the visual inspection for cracks at intervals not to exceed 25 hours' time in service, per (a)(1) and (a)(2) above.

(4) After the mast fittings have been properly gapped, shimmed and nuts torqued, per (a)(2) and (a)(3) above, inspect for cracks at intervals not to exceed 160 hours time in service until at least two inspections have been accomplished, or the part has accumulated an additional 280 hours time in service, whichever occurs later, and, thereafter, at intervals not to exceed 600 hours time in service.

(5) Inspection requirements under (a) of this AD may be terminated when: (A) the magnesium mast fittings are replaced with aluminum mast fittings per Boeing ASB No. 57-1040 (FAA-approved revision to be issued); and (B) the tab control rods are replaced with adjustable tab control rods, Boeing P/N 69-60081-1, installed per instructions in Boeing Service Bulletin 27-1025, dated April 30, 1969, or later FAA-approved revisions.

(b) Within 160 hours' time in service after the effective date of this AD, visually inspect the aileron tab hinge fitting flanges for cracks.

(1) If cracks are found, replace hinge fitting with a new Boeing P/N 6937805-6 before further flight.

(2) If no cracks are found, repeat inspection for cracks at intervals not to exceed 600 hours' time in service.

NOTE: Designated 737 Series aircraft listed in Group II, Boeing ASB 57-1040, delivered after April 15, 1969, have had the inspection of (b) performed by the manufacturer and may therefore be inspected at intervals not exceeding 600 hours' time in service.

(3) Inspection requirements under (b) of this AD may be terminated when magnesium

tab hinge fittings are replaced with an aluminum tab hinge fitting per Boeing ASB 57-1040 (FAA-approved revision to be issued).

(c) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the repetitive inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(d) Airplanes having cracked parts which require replacing under this AD may be flown in accordance with FAR 21.197 with the concurrence of the Chief, Aircraft Engineering Division, FAA Western Region, to a base where the replacement of parts can be accomplished.

This amendment becomes effective on June 18, 1969.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on June 9, 1969.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[F.R. Doc. 69-7164; Filed, June 17, 1969; 8:47 a.m.]

[Docket No. 9654; Amdt. 39-783]

PART 39—AIRWORTHINESS DIRECTIVES

Britten Norman Models BN-2 and BN-2A Aircraft Serial Nos. 3 Through 43 and Serial Nos. 45 and 46

A defective control system turnbuckle has been found on a Britten Norman Aircraft Model BN-2 airplane. In view of the serious consequences of the failure of such a turnbuckle and since this condition is likely to exist or develop on other aircraft of the same type design, an airworthiness directive (AD) is being issued to require inspection of the control system turnbuckles and replacement if found defective on Britten Norman Models BN-2 and BN-2A Aircraft Serial Nos. 3 through 43 and Serial Nos. 45 and 46.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are 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 (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITTEN NORMAN LTD. Applies to Britten Norman Models BN-2 and BN-2A Aircraft Serial Nos. 3 through 43 and Serial Nos. 45 and 46.

Compliance required as indicated unless already accomplished.

To prevent a possible failure of the aileron, rudder, or nose wheel steering control system, accomplish the following:

(a) Within the next 25 hours' time in service, inspect the threaded female portion of the fork-ends, P/N NB 45-B-879, of each turnbuckle assembly in the aileron, rudder, and nose wheel steering systems for evidence of thread defects in accordance with Britten-Norman Service Bulletin BN-2/SB.15, dated April 16, 1969, or later ARB-approved issue or later FAA-approved equivalent.

(b) If the threaded female portion of any turnbuckle fork-end is found to be defective during the inspection required by paragraph (a), replace each defective fork-end with a serviceable fork-end of the same part number before further flight.

This amendment becomes effective June 23, 1969.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423; Sec. 601(c), Department of Transportation Act 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 10, 1969.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 69-7165; Filed, June 17, 1969; 8:47 a.m.]

[Airspace Docket No. 69-WE-39]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Olympia, Wash., control zone.

Due to circumstances beyond the control of the agency, weather reporting service will not be available at Olympia after June 8, 1969, between the hours of 2100 to 0500 hours local time daily. The control zone is currently effective 24 hours daily, however, since weather services are a requirement for designation of a control zone and will not be available during the aforementioned hours, the control zone must be modified accordingly.

For the reasons stated above, the Administrator finds that a situation exists requiring immediate action in the interest of public safety and that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing in § 71.171 (34 FR 4557) the Olympia, Wash., control zone is amended by adding "This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual."

Effective date: This amendment shall be effective upon publication in the FEDERAL REGISTER.

Issued in Los Angeles, Calif., on June 6, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69-7166; Filed, June 17, 1969; 8:47 a.m.]

[Airspace Docket No. 69-CE-25]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Sullivan, Ind.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the Sullivan, Ind., transition area. Action is taken herein to reflect this change.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., July 24, 1969, as hereinafter set forth:

In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

SULLIVAN, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sullivan County Airport (latitude 39°07′00″ N., longitude 87°26′55″ W.); and within 3 miles each side of the 187° bearing from Sullivan County Airport, extending from the 5-mile radius area to 8 miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; (49 U.S.C. 1655(c))

Issued at Kansas City, Mo., on May 7, 1969.

BROWNING ADAMS,
Acting Director, Central Region.

[F.R. Doc. 69-7167; Filed, June 17, 1969; 8:47 a.m.]

[Airspace Docket No. 69-WA-16]

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

Designation and Alteration of Federal Airways

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to designate the United States segment of V-309 from the Prince Rupert, British Columbia, Canada, RBN,

1,200 feet AGL to Annette Island, Alaska; and to designate a segment of Blue 38 from the Prince Rupert RBN, 1,200 feet AGL to Annette Island, radio range station; 42 miles 1,200 feet AGL, 5,200 feet MSL Petersburg, Alaska, radio range station; 1,200 feet AGL to the Five Finger, Alaska, RBN. These actions are taken at the request of the Canadian Department of Transport to reduce delays to northbound instrument flight rule traffic departing Prince Rupert.

Since these amendments are minor in nature in that they involve the designation of a small amount of controlled airspace, notice and public procedure thereon are unnecessary, However, since it is necessary to allow sufficient time to make the appropriate changes to aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 21, 1969, as hereinafter set forth.

1. Section 71.109 (34 F.R. 4508) is amended as follows:

a. In Blue 38 "From Five Finger, Alaska," is deleted and "From Prince Rupert, British Columbia, Canada, RBN, 12 AGL Annette Island, Alaska, RR; 42 miles 12 AGL, 52 MSL, Petersburg, Alaska, RR; 12 AGL Five Finger, Alaska, RBN;" is substituted therefor.

2. In § 71.125 (34 F.R. 4543) V–309 is added as follows:

a. V–309 From Prince Rupert, British Columbia, Canada, RBN, 12 AGL Annette Island, Alaska. The airspace within Canada is excluded.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348. Sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 13, 1969.

T. McCormack,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 69–7189; Filed, June 17, 1969; 8:48 a.m.]

[Airspace Docket No. 69–EA–55]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 is to extend the time of designation of Temporary Restricted Area R–4902 Nashua, N.H.

On October 28, 1965, the Department of the Navy requested the designation of a temporary restricted area to contain Navy aircraft conducting unusual classified operations that would be hazardous to nonparticipating aircraft. R–4902 was designated by Airspace Docket No. 65–WA–60 which was published in the Federal Register (30 F.R. 13864) on November 2, 1965, and was to expire on February 4, 1966. Since that time this area has been extended from year to year with the last previous designation to July 31, 1969, being contained in Airspace Docket No. 68–EA–18 (33 F.R. 6085).

The flight test operations for which the area was originally designated have been completed; however, the Navy has advised that other classified aircraft operations and testing hazardous to nonparticipating aircraft are now being performed within R–4902 and there is an urgent military requirement in the direct interest of national defense that the operations be continued and that the time of designation of R–4902 be extended to July 31, 1970.

Since the Department of the Navy has stated that the continued designation of the area is of urgent military necessity, the Administrator has determined that it is contrary to the public interest to comply with the notice, public procedure, and effective date requirements of Public Law 89–554 (5 U.S.C. 553), therefore, this amendment may become effective in less than 30 days.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 73.49 (34 F.R. 4836) R–4902 Nashua, N.H. (Temporary), is amended as follows: "Time of designation: 0900 local time to sunset, November 4, 1965, through July 31, 1969," is deleted, and "Time of designation: 0900 local time to sunset, November 4, 1965, through July 31, 1970," is substituted therefor.

(Secs. 307(a), 307(f), Federal Aviation Act of 1958; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 13, 1969.

T. McCormack,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 69–7188; Filed, June 17, 1969; 8:48 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–575, Amdt. 10]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES CHARTERS TO DIRECT FOREIGN AIR CARRIERS FOR LIMITED PURPOSES

Definitions and Reports of Emergency Commercial Charters for Other Direct Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of June 1969.

In a notice of proposed rule making published in the Federal Register on February 20, 1969 (34 F.R. 2420) and circulated to the industry as EDR–155, Docket 20076, the Board proposed to amend Parts 207, 208, 212, 214, and 295 of the economic regulations (14 CFR Parts 207, 208, 212, 214, and 295) to permit direct air carriers and direct foreign air carriers to charter aircraft to direct foreign air carriers for transportation of commercial traffic in emergency cases, or solely for transportation of company personnel or company property. A reporting requirement would be imposed on the emergency commercial charter authorization.

In support of the proposal the Board stated that it appeared desirable from the standpoint of minimal inconvenience to passengers or delay in the carriage of cargo to permit emergency intercarrier charters, regardless of whether the charterer is a foreign or U.S. direct carrier. However, to assure that the emergency commercial charter authority is not abused, it was proposed to condition such authority on the filing of special reports by the carrier performing the transportation.

Pursuant to the notice, comments were received on behalf of four foreign air carriers,[1] three U.S.-flag route carriers,[2] two U.S. all-cargo carriers,[3] and four supplemental carriers.[4] The Board has given consideration to all comments presented. For the reasons hereinafter set forth and those announced in EDR–155, we have decided to adopt the proposed rules with modifications, and, except as modified, the tentative findings set forth in the explanatory statement to the proposed rule are incorporated herein by reference and made final. In the case of emergency charters of foreign air carriers (Part 212), we shall delete the reporting requirement and we shall add to the reporting requirement in Parts 207, 208, 214, and 295 the following two items: (a) The date of initial contact by the chartering carrier regarding the charter; and (b) the reasons why the traffic in question could not be carried by other carriers certificated to serve the particular market.

In their comments the foreign route carriers raise questions concerning the applicability of the rule to on-route charters,[5] and we find that this matter requires clarification. It was not intended that the proposed amendment to Part 212 apply to on-route charters.[6] Its purpose was solely to expand the off-route charter authority of foreign route carriers, subject to a reporting requirement. Moreover, we shall not impose a reporting requirement in Part 212. As Swissair points out, a reporting requirement is unnecessary in light of the prior approval limitation contained in § 212.4.[7]

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[1] Foreign route air carriers KLM Royal Dutch Airlines (KLM), Lufthansa German Airlines (Lufthansa), Swissair, Swiss Air Transport Co. (Swissair); and foreign charter carrier Martin's Air Charter (Martin's).

[2] Braniff Airways (Braniff); Pan American World Airways (Pan American); Trans World Airlines (TWA).

[3] The Flying Tiger Line Inc. (Flying Tiger); Seaboard World Airlines, Inc. (Seaboard).

[4] Modern Air Transport, Inc. (Modern); Overseas National Airways, Inc. (ONA); Trans International Airlines, Inc. (TIA); World Airways, Inc. (World).

[5] KLM also challenges the Board's authority to amend Part 212 through rule making proceedings. This same argument was discussed and rejected in ER–519, adopted Nov. 22, 1967, and ER–568, adopted Mar. 27, 1969.

[6] The same is true with respect to Part 207.

[7] § 212.4 "A foreign air carrier shall not perform any off-route charter trips unless specific authority in the form of a statement of authorization to conduct such charter trip has been granted by the Board."

Certain U.S. certificated route carriers urge that the rule define the term "emergency commercial charter" to prevent abuse in the exercise of this new authority. It is claimed that the language in the notice that the rule would authorize "one or at most a few flights" is nebulous and that the rule would be difficult to enforce. They suggest that the Board also enumerate the situations which would not qualify as "emergency" charters.

No carrier has submitted a proposed definition of the term "emergency commercial charter" and we will not, at this time, attempt to add a precise definition to the rule. As noted in the explanatory statement (EDR–155, supra, the purpose of the reporting requirement is to assure that the emergency commercial charter authority is not abused. We there stated that such authorization is intended to allow only one or at the most a few flights,[8] and that it does not authorize a continuing wet lease arrangement where, for example, a carrier has lost or is overhauling an aircraft. Without attempting to cover all types of situations which would qualify as emergency charters, we believe that events such as unforeseen mechanical difficulties would be within the scope of the rule. Circumstances which would not qualify as emergencies would include oversales, cancellation of a flight due to periodic overhaul of aircraft or delays in the delivery of new aircraft. Should the reports filed under the rule reveal numerous borderline cases of emergency charters, the Board will issue an interpretation of the rule for the future guidance of carriers.

Also, we shall reject other suggestions of the carriers. There is no sound basis for Seaboard's concern[9] that the rule would enable transatlantic supplemental carriers to perform emergency transatlantic cargo charters, since such carriers do not possess cargo authority and the rule will not grant a carrier any basic authority which it does not already possess.[10] Nor will we adopt the proposal for a 1-year authorization or for the abolition of the reporting requirement after a trial period. Both the authorization and the concomitant reporting requirement will be for an indefinite term. Should the need arise, the Board possesses ample power to revise the rule to meet unforeseen developments. Nor is it necessary that the charter rates for emergency charters be "prevailing" charter rates of the carriers authorized to provide charter services in the markets involved or that there be a "first refusal" procedure. As we view it, the emergency charter authorization will be limited in extent and will have no substantial adverse effect on the certificated route carriers or other classes of direct air carriers or direct foreign air carriers."

On the other hand, we find merit in and shall adopt TWA's suggestion that the post operation report include the date of initial contact by the chartering carrier and the reasons why the traffic in question was not or could not have been carried on the services of other carriers certificated in the market. Such information will be of assistance in assuring that emergency charter authority is not abused.

Accordingly, the Civil Aeronautics Board amends Part 207 of the Economic Regulations (14 CFR Part 207) effective July 18, 1969, as follows:

1. Amend the Table of Contents to add new § 207.10 to read as follows:

Sec.

* * * * *

207.10 Reports of emergency commercial charters for other direct carriers.

2. Amend subparagraph (1) of the definition of "Charter trip" in § 207.1 as follows:

§ 207.1 Definitions.

* * * * *

"Charter trip" means air transportation * * * where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or for the movement of property, on a time, mileage or trip basis—

(1) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 207.10);

* * * * *

3. Add new § 207.10 to read as follows:

§ 207.10 Reports of emergency commercial charters for other direct carriers.

It shall be an express condition upon authority conferred by subparagraph (1) of the definition of "charter trip" in § 207.1 that each air carrier which performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of Operating Rights, within 30 days following each charter trip, containing the following information:

(1) Name of direct carrier performing the charter and name of direct carrier for which the charter was performed;

(2) Date of flight or flights;

(3) Points of origin and destination, and intermediate points, if any;

(4) Number of passengers and/or tons of cargo transported;

(5) Description of circumstances creating the emergency;

(6) Date of initial contact by the chartering carrier regarding the charter;

(7) Reasons why the traffic in question was not or could not be carried by other carriers certificated to serve the particular market.

(Secs. 204(a) and 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended by 76 Stat. 143, 82 Stat. 867); 49 U.S.C. 1324, 1371)

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] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 69–7209; Filed, June 17, 1969; 8:50 a.m.]

[Reg. ER–576, Amdt. 2]

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Charters To Direct Foreign Air Carriers for Limited Purposes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of June 1969.

In a notice of proposed rule making dated February 17, 1969 (EDR–155, 34 F.R. 2420), the Board proposed to amend Parts 207, 208, 212, 214, and 295 to permit direct air carriers and direct foreign air carriers to charter aircraft to direct foreign air carriers for transportation of commercial traffic in emergency cases, or solely for transportation of company personnel or company property, and to impose a reporting requirement on the emergency commercial charter authorization. Pursuant to the notice, comments were received on behalf of certain direct air carriers and foreign air carriers.

For the reasons set forth in Regulation ER–575, published simultaneously herewith, we have determined to adopt the proposed rule with certain modifications. Accordingly, the Civil Aeronautics Board hereby amends Part 208 of the economic regulations (14 CFR Part 208) effective July 18, 1969, as follows:

1. Amend the Table of Contents to add new § 208.5 to read as follows:

Sec.

* * * * *

208.5 Reports of emergency commercial charters for other direct carriers.

2. Amend subparagraphs (2) (i)(*a*) and (ii)(*a*) of the definition of "Charter flight" in § 208.3(s) as follows:

§ 208.3 Definitions.

* * * * *

(s) "Charter flight" * * * means—

(1) * * *

(2) Air transportation performed by a direct air carrier on a time, mileage or trip basis where—

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[8] TWA would have the Board specify the maximum number of emergency charters permitted in any 1 year. We see no need for this further limitation. In our view, the reporting requirement and the elucidation of the term "emergency" set forth herein are sufficient to control any abuse in the exercise of the emergency charter authority.

[9] TWA makes a similar argument.

[10] Seaboard's request that the Board except from the rule transatlantic cargo charters by other classes of carriers is rejected. Seaboard has failed to show any substantial adverse effect from adoption of the proposed rule.

[11] Pan American requests that the post charter reports be accorded full public disclosure. We have always intended that this would be the case.

(i) The entire capacity of one or more aircraft has been engaged for the movement of persons and property—

(a) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

* * * * *

(ii) Less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage—

(a) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

3. Add new § 208.5 to read as follows:

§ 208.5 Reports of emergency commercial charters for other direct carriers.

It shall be an express condition upon authority conferred by § 208.3(s)(2)(i)(a) and (ii)(a) that each supplemental air carrier which performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of Operating Rights, within 30 days following each charter flight, containing the following information:

(1) Name of direct carrier performing the charter and name of direct carrier for which the charter was performed;

(2) Date of flight or flights;

(3) Points of origin and destination, and intermediate points, if any;

(4) Number of passengers and/or tons of cargo transported;

(5) Description of circumstances creating the emergency;

(6) Date of initial contact by the chartering carrier regarding the charter;

(7) Reasons why the traffic in question was not or could not be carried by other carriers certificated to serve the particular market.

(Secs. 204(a) and 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended by 76 Stat. 143, 82 Stat. 867); 49 U.S.C. 1324, 1371)

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] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-7210; Filed, June 17, 1969; 8:50 a.m.]

[Reg. ER-577, Amdt. 4]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Charters To Direct Foreign Air Carriers for Limited Purposes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of June 1969.

In a notice of proposed rule making dated February 17, 1969 (EDR-155, 34 F.R. 2420), the Board proposed to amend Parts 207, 208, 212, 214, and 295 to permit direct air carriers and direct foreign air carriers to charter aircraft to direct foreign air carriers for transportation of commercial traffic in emergency cases, or solely for transportation of company personnel or company property, and to impose a reporting requirement on the emergency commercial charter authorization. Pursuant to the notice, comments were received on behalf of certain direct air carriers and foreign air carriers.

For the reasons set forth in Regulation ER-575, published simultaneously herewith, we have determined to adopt the proposed rule with certain modifications, including omission of a reporting requirement in Part 212. Accordingly, the Civil Aeronautics Board hereby amends Part 212 of the economic regulations (14 CFR Part 212), effective July 18, 1969, as follows:

Amend subparagraph (5) of the definition of "charter trip" in § 212.1(a) as follows:

§ 212.1 Definitions.

For the purposes of this part:

(a) "Charter trip" means foreign air transportation * * * where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or for the movement of property, on a time, mileage or trip basis—

* * * * *

(5) By a direct air carrier, direct foreign air carrier, or surface carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic.

(Secs. 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-7211; Filed, June 17, 1969; 8:50 a.m.]

[Reg. ER-578, Amdt. 2]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Charters To Direct Foreign Air Carriers for Limited Purposes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of June 1969.

In a notice of proposed rule making dated February 17, 1969 (EDR-155, 34 F.R. 2420), the Board proposed to amend Parts 207, 208, 212, 214, and 295 to permit direct air carriers and direct foreign air carriers to charter aircraft to direct foreign air carriers for transportation of commercial traffic in emergency cases, or solely for transportation of company personnel or company property, and to impose a reporting requirement on the emergency commercial charter authorization. Pursuant to the notice, comments were received on behalf of certain direct air carriers and foreign air carriers.

For the reasons set forth in Regulation ER-575, published simultaneously herewith, we have determined to adopt the proposed rule with certain modifications. Accordingly, the Civil Aeronautics Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214) effective July 18, 1969, as follows:

1. Amend the Table of Contents to add new § 214.5 to read as follows:

Sec.

* * * * *

214.5 Reports of emergency commercial charters for other direct carriers.

2. Amend subparagraphs (1)(i) and (2)(i) of the definition of "Charter flight" in § 214.2(b) as follows:

§ 214.2 Definitions.

* * * * *

(b) "Charter flight" means air transportation * * * on a time, mileage, or trip basis where

(1) The entire capacity of one or more aircraft has been engaged for the movement of persons and their personal baggage—

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial (passenger) traffic shall be reported in accordance with § 214.5);

* * * * *

(2) Less than the entire capacity of an aircraft has been engaged:

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is

engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial passenger traffic shall be reported in accordance with § 214.5);

* * * * *

3. Add new § 214.5 to read as follows:

§ 214.5 Reports of emergency commercial charters for other direct carriers.

It shall be an express condition upon authority conferred in § 214.2(b) (1) (i) and (2) (i) that each foreign charter air carrier which performs an emergency charter transporting commercial passenger traffic for another direct carrier shall file a report with the Bureau of Operating Rights, within 30 days following each charter flight, containing the following information:

(1) Name of direct carrier performing the charter and the name of the direct carrier for which the charter was performed;
(2) Date of flight or flights;
(3) Points of origin and destination, and intermediate points, if any;
(4) Number of passengers transported;
(5) Description of circumstances creating the emergency;
(6) Date of initial contact by the chartering carrier regarding the charter;
(7) Reasons why the traffic in question was not or could not be carried by other carriers certificated to serve the particular market.

(Secs. 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

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] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 69-7212; Filed, June 17, 1969; 8:50 a.m.]

[Reg. ER-579, Amdt. 4]

PART 295—TRANSATLANTIC SUPPLEMENTAL AIR TRANSPORTATION

Charters To Direct Foreign Air Carriers for Limited Purposes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of June 1969.

In a notice of proposed rule making dated February 17, 1969 (EDR-155, 34 F.R. 2420), the Board proposed to amend Parts 207, 208, 212, 214, and 295 to permit direct air carriers and direct foreign air carriers to charter aircraft to direct foreign air carriers for transportation of commercial traffic in emergency cases, or solely for transportation of company personnel or company property, and to impose a reporting requirement on the emergency commercial charter authorization. Pursuant to the notice comments were received on behalf of certain direct air carriers and foreign air carriers.

For the reasons set forth in Regulation ER-575, published simultaneously herewith, we have determined to adopt the proposed rule with certain modifications. Accordingly, the Civil Aeronautics Board hereby amends Part 295 of the Economic Regulations (14 CFR Part 295), effective July 18, 1969, as follows:

1. Amend the Table of Contents to add new § 295.6 to read as follows:

Sec.

* * * * *

295.6 Reports of emergency commercial charters for other direct carriers.

2. Amend subparagraphs (1) (i) and (2) (i) of the definition of "Charter flight" in § 295.2(b) as follows:

§ 295.2 Definitions.

* * * * *

(b) "Charter flight" means air transportation performed by a direct air carrier on a time, mileage or trip basis where (1) the entire capacity of one or more aircraft has been engaged for the movement of persons and their personal baggage—

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial passenger traffic shall be reported in accordance with § 295.6);

* * * * *

or (2) less the entire capacity of an aircraft has been engaged—

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial passenger traffic shall be reported in accordance with § 295.6);

* * * * *

3. Add new § 295.6 to read as follows:

§ 295.6 Reports of emergency commercial charters for other direct carriers.

It shall be an express condition upon authority conferred in § 295.2(b) (1) (i) and (2) (i) that each supplemental air carrier which performs an emergency charter transporting commercial passenger traffic for another direct carrier shall file a report with the Bureau of Operating Rights, within 30 days after each charter flight, containing the following information:

(1) Name of direct carrier performing the charter and the name of the direct carrier for which the charter was performed;
(2) Date of flight or flights;
(3) Points of origin and destination, and intermediate points, if any;
(4) Number of passengers transported;
(5) Description of circumstances creating the emergency;
(6) Date of initial contact by the chartering carrier regarding the charter;
(7) Reasons why the traffic in question was not or could not be carried by other carriers certificated to serve the particular market.

(Secs. 204(a) and 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended by 76 Stat. 143 and 82 Stat. 867); 49 U.S.C. 1324, 1371)

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] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 69-7213; Filed, June 17, 1969; 8:50 a.m.]

[Reg. ER-580, Amdt. 1]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Air Taxi Mail Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of June 1969.

By notice of proposed rule making dated April 25, 1969, EDR-160, Docket 20945, and published at 34 F.R. 7085, the Board proposed to amend Part 298 to extend the exemption granted air taxi operators to engage in the transportation of mail until June 30, 1974.

Interested persons were afforded an opportunity to participate in the rule making. The only comment received, on behalf of the National Air Transportation Conferences, supports the proposed rule. The Board has decided to adopt the rule as proposed, and the tentative findings set forth in the explanatory statement to the proposed rule are incorporated herein by reference and made final.

Since this extension of the exemptions contained in Part 298 is a rule relieving a restriction, it may be made effective on less than 30 days' notice. Accordingly, the Board hereby amends § 298.13 of the economic regulations (14 CFR § 298.13), effective July 1, 1969, to read as follows:

§ 298.13 Duration of exemption.

The exemption from any provision of title IV of the Act provided by § 298.11 shall continue in effect only until such time as the Board shall find that enforcement of such provision would be in the public interest or would no longer be a burden on air taxi operators: *Provided*, That upon such a finding as to any air taxi operator or class of air taxi operators, such exemption shall to that extent terminate with respect to such operator or class of operators: *And, provided further*, That the authorizations to air taxi operators to engage in the transportation of mail by aircraft within the

48 contiguous States and Hawaii shall terminate on June 30, 1974.

(Secs. 204(a), 406, 416, of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 763 (as amended by 76 Stat. 145, 80 Stat. 942), 771; 49 U.S.C. 1324, 1376, 1386)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 69-7214; Filed, June 17, 1969; 8:51 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 35-16369]

PART 251—INTERPRETATIVE RELEASES RELATING TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND GENERAL RULES AND REGULATIONS THEREUNDER

Adoption of Modifications of Policies Regarding Redemption Provisions of Long-Term Debt Securities Issued and Sold Under Holding Company Act

On November 20, 1968, the Securities and Exchange Commission published an invitation for comments (Release No. 35-16211, 33 F.R. 17817) on the question of whether it should modify those provisions of its Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935 (Release No. 35-13105, 21 F.R. 1286) which heretofore have required that bonds issued and sold pursuant to the terms of sections 6 (15 U.S.C. 79(f)) and 7 (15 U.S.C. 79(g)) of such Act ("Act") be redeemable at the option of the issuer "at any time upon reasonable notice and with reasonable redemption premiums, if any." A number of persons have submitted comments.

The Commission has concluded that it is appropriate, in the public interest and in the interest of investors and consumers, to permit the issuers of first mortgage bonds subject to the Act to include a 5-year refunding limitation in the terms and provisions of new issues of such bonds. Accordingly, pursuant to the provisions of sections 6 (15 U.S.C. 79(f)), 7 (15 U.S.C. 79(g)) and 20 (15 U.S.C. 79(t)) of the Act, the Commission has suspended the redemption requirement now contained in its Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935 (Release No. 35-13105, 21 F.R. 1286), so that issuers may include in the indentures securing new issues of mortgage bonds a provision prohibiting, for a period of not more than 5 years, the refunding of such bonds by the issuance of debt securities at lower interest costs.

Heretofore, the general redemption prices of first mortgage bonds have been considered reasonable, within the meaning of the statement of policy, whenever such general redemption prices commence, immediately following the issuance of such bonds, at an amount equal to the sum of the coupon rate plus the public offering price and decline each year thereafter by equal amounts to the principal amount at the beginning of the last year prior to maturity. No change in this policy is authorized. Therefore, when the 5-year period of nonrefundability authorized herein expires, the general redemption price at which the bonds may then be called will be the same as it would have been if there had been no restriction on refundability.

The modification of redemption policy herein authorized shall not apply to the redemption of first mortgage bonds for sinking fund, or to redemptions in connection with mergers, sales of properties, or for other corporate purposes.

The foregoing modification of redemption policy shall also be applicable to other long-term debt securities issued and sold pursuant to sections 6 (15 U.S.C. 79(f)) and 7 (15 U.S.C. 79(g)) of the Act.

The Commission wishes to emphasize that it will continuously review the effects of its redemption policies, including specifically the foregoing modification, and based on experience with the modification make such adjustments in these policies as may from time to time be deemed appropriate, including a rescission of the present modification, an extension of the allowed 5-year nonrefunding period, or any other change experience would warrant.

The modification of policy as to refundability herein authorized shall become effective on May 8, 1969.

(Sec. 6, 49 Stat. 814, 15 U.S.C. 79(f); sec. 7, 49 Stat. 815, 15 U.S.C. 79(g); and sec. 20, 49 Stat. 833, 15 U.S.C. 79(t))

By the Commission.

NELLYE A. THORSEN, *Assistant Secretary.*

MAY 8, 1969.

[F.R. Doc. 69-7153; Filed, June 17, 1969; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Pursuant to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968, 42 U.S.C. 4001-4127) effective January 28, 1969 (33 F.R. 17804, Nov. 28, 1968), the Secretary of Housing and Urban Development published in the FEDERAL REGISTER (34 F.R. 2673-75, Feb. 27, 1969) a notice of proposed rule making in which he proposed a new Part 1910 of Title 24 in which were set forth criteria for land management and use in connection with the National Flood Insurance Program.

The purpose of the criteria is to encourage the adoption, where necessary, of permanent State and local land use and control measures for land management and use in flood-prone areas. Flood insurance under this program may be made available only in States or areas (or subdivisions thereof) which have evidenced a positive interest in securing flood insurance under this program and which have given assurances that by June 30, 1970, appropriate land use and control measures consistent with these criteria, with effective enforcement provisions, shall have been adopted. After June 30, 1970, no new flood insurance coverage may be provided under this program in any area which has not adopted such measures.

Comments on the proposed criteria were invited from all interested persons. Comments, views, and suggestions were received from many interested persons as well as from Federal and State agencies, local governments, insurance commissioners, and members of the National Flood Insurance Advisory Committee. These comments, views, and suggestions were carefully reviewed, and publication of the formal criteria has been delayed to enable them to be fully taken into consideration. The following formulation of revised criteria for land management and use thus deals explicitly with flood plain regulation, flood zoning, and flood damage prevention in flood-prone areas. Because of the substantial amount of public interest which has been shown in obtaining flood insurance at the earliest practicable date, it has been found that good cause exists to make these criteria under Part 1910 effective upon publication, in accordance with 5 U.S.C. 553(d).

Parts 1909 and 1911 through 1915. Under this program, which is designed to make flood insurance available through a cooperative effort between the Federal Government and the private property insurance industry, coverage will be available initially for residential properties designed for the occupancy of from one to four families and, at a later date, for small business properties, in inland and coastal flood-prone areas. As more experience is gained in the operation of the program, flood insurance coverage may be extended to include other types and classes of properties.

In accordance with the provisions of the National Flood Insurance Act, the Secretary expects to assign a priority in establishing estimated risk premium rates, which must precede the sale of insurance, to those States or areas (or subdivisions) which have evidenced a positive interest in securing flood insurance coverage.

The purpose of Parts 1909 and 1911 through 1915 is to set forth the general definitions applicable to the program, types of properties eligible for insurance and limits of coverage, manner in which insurance will be sold and loss claims adjusted, manner in which areas eligible

for coverage will be designated, and manner in which flood-prone areas having special flood hazards will be identified. Since Parts 1909 and 1911 through 1915 all relate to a benefits program, 5 U.S.C. 553 does not apply to such parts. However, as required by the Act, the Secretary has consulted with the Flood Insurance Advisory Committee, the National Flood Insurers Association, and appropriate representatives of the State insurance authorities prior to the issuance of this subchapter.

Under Title 24, Chapter VII, a new Subchapter B is established to read as follows:

PART 1909—GENERAL PROVISIONS

Sec.
1909.1 General definitions.

AUTHORITY: The provisions of Part 1909 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968, 42 U.S.C. 4001–4127, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968); 5 U.S.C. 553; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and Secretary's designation of Acting Federal Insurance Administrator, 33 F.R. 11794, Aug. 20, 1968.

§ 1909.1 General definitions.

As used in this subchapter—

"Accounting period" means any annual period during which the Agreement is in effect: *Provided*, That the first accounting period will begin June 6, 1969, and end June 30, 1970. Thereafter each accounting period will begin July 1 and end June 30. Each accounting period under the Agreement applies separately to the insurance premiums payable, losses incurred, premium equalization and reinsurance payments due, and operating costs and allowances attributable with respect to all policies issued under the program during the accounting period.

"Act" means the National Flood Insurance Act of 1968, enacted as title XIII of the Housing and Urban Development Act of 1968, 42 U.S.C. 4001–4127, which became effective January 28, 1969, by order of the Secretary (33 F.R. 17804, Nov. 28, 1968) pursuant to section 1377 of the Act.

"Actuarial rates" means the risk premium rates, estimated by the Administrator pursuant to studies and investigations undertaken by him in accordance with section 1307 of the Act, necessary to provide flood insurance in accordance with accepted actuarial principles. Actuarial rates include applicable operating costs and allowances.

"Administrator" means the Federal Insurance Administrator and the Deputy Federal Insurance Administrator, to whom the Secretary has delegated the administration of the program (34 F.R. 2680–81, Feb. 27, 1969).

"Agreement" means the contract entered into for the accounting period June 6, 1969, through June 30, 1970, by and between the Administrator and the Association, whereby the Association will provide policies of flood insurance under the program within designated areas and will adjust and pay claims for losses arising under such policies. The Agreement is renewed automatically with respect to each subsequent accounting period unless either the Administrator or the Association gives the other written notice of intention to terminate on or before January 31 of the then current accounting period.

"Association" means the National Flood Insurers Association and, as the context may indicate, the insurance pool composed of two or more of its members or any member acting for or on behalf of the Association under the Agreement.

"Chargeable rates" means the reasonable premium rates, estimated by the Administrator in accordance with section 1308 of the Act, which are charged to prospective insureds in order to encourage them to purchase the flood insurance made available under the program. Generally, for areas having special flood hazards, chargeable rates are considerably lower than actuarial rates.

"Coinsurance" means a sharing of the risk of a partial loss by an insured along with an insurance company, generally as a result of the insured's having purchased an insufficient amount of insurance. The coinsurance clause does not apply to losses in excess of coverage.

"Criteria" means the comprehensive criteria for land management and use developed under section 1361 of the Act for the purposes set forth in § 1910.51 of this chapter.

"Deductible" means the fixed amount or percentage of any loss not covered by an insurance policy. The amount of the deductible must be exceeded before insurance coverage takes effect.

"Department" means the U.S. Department of Housing and Urban Development, whose address is 451 Seventh Street SW., Washington, D.C. 20410.

"Designated area" means a State, area, or subdivision thereof for which the Administrator has authorized the sale of flood insurance under the program, as delineated on the Official Flood Insurance Map.

"Flood" or "flooding" means the general and temporary condition of partial or complete inundation of normally dry land areas (a) from the overflow of streams, rivers, or other inland waters or (b) from tidal surges, abnormally high tidal water, tidal waves, or rising coastal waters resulting from hurricanes, tsunamis, or other severe storms.

"Flood plain" means the area, usually a relatively flat or lowland area, adjoining a river, stream, watercourse, ocean, bay, or lake, which has been in the past or can reasonably be expected in the future to be covered temporarily by flood water.

"Flood plain area having special flood hazards" generally means the maximum area of the flood plain which is likely to be flooded at least once every 100 years. For the purposes of this part, it is the area identified in accordance with section 1360 of the Act and delineated on the Official Flood Hazard Map. This is the minimum area to which the requirements of this part apply and in which flood insurance initially will be sold after the prerequisites set forth in this part have been met.

"Flood plain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, based on an adequate understanding and description of probable flood hazards, including but not limited to emergency preparedness plans, flood control works, and flood plain regulations (land use and control measures).

"Flood-prone area" means any area which can reasonably be expected to be subject to periodic flooding. For the purpose of Part 1910 of this chapter the term is generally synonymous with "flood plain area".

"Floodway" means the area of the flood plain reasonably required to carry and discharge flood waters. The limits of the floodway will vary according to conditions within the flood plain. For coastal areas, the term is applied to the area where waters from the 100-year or reasonably anticipated flood could be expected to result in significant property losses to normally designed structures.

"Floodway-encroachment lines" means the lines marking the limits of floodways on official Federal, State, and local floodplain maps.

"Insurance adjustment organization" means any organization or person engaged in the business of adjusting loss claims arising under insurance policies issued by any insurance company or other insurer.

"Insurance company" or "insurer" means any person or organization authorized to engage in the insurance business under the laws of any State.

"Land use and control measures" means zoning ordinances, subdivision regulations, building codes, health regulations, and other applications and extensions of the normal police power to provide safe standards of occupancy for, and prudent use of, flood-prone areas.

"National Flood Insurers Association" is the Association sponsoring the industry flood insurance pool formed in accordance with sections 1331 and 1332 of the Act (See "Agreement" and "Association"). The Association headquarters is located at 125 Maiden Lane, New York, N.Y. 10038.

"Official Flood Hazard Map" means the official map published or designated by the Administrator to identify floodplain areas having special flood hazards, in accordance with section 1360(1) of the Act.

"Official Flood Insurance Map" means the official map on which the Administrator has delineated the boundaries of the designated areas in which flood insurance under the program may be sold.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons, including State and local governments and agencies thereof.

"Policy" means the Standard Flood Insurance Policy.

"Policyholder premium" means the total insurance premium payable by the insured for the coverage or coverages

provided under the policy. The calculation of the policyholder premium may be based upon either chargeable rates or actuarial rates, or both.

"Program" means the overall National Flood Insurance Program authorized by the Act, including its required coordination with land management programs in flood-prone areas in accordance with sections 1360–1362 of the Act.

"Secretary" means the Secretary of Housing and Urban Development, who is authorized to carry out the program by section 1304 of the Act.

"Standard Flood Insurance Policy" means the standard contract or policy by means of which flood insurance coverage under the program is made available to an insured by the Association. The form of the policy, as well as its terms and conditions, must have the prior approval of the Administrator and be uniform with respect to all areas.

"Start of construction" means the placement of permanent construction, such as pouring of footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing of any prefabricated structure to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling; excavation for basement, footings, piers, or foundations; erection of temporary forms; the installation of piling under proposed subsurface footings; installation of sewer, gas, and water pipes, or electric or other service lines from the street; or existence on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure.

"State" means the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

"Substantial improvement" means any improvement which increases the actual cash value of a structure by an amount in excess of 50 percent of its actual cash value before the making of the improvement. Substantial improvement does not include any temporary or other improvement which does not alter the internal or external design of the building. Substantial improvement is started when the first alteration of any wall, ceiling, floor, or other structural part of the building commences.

PART 1910—CRITERIA FOR LAND MANAGEMENT AND USE

Subpart A—General

Subpart B—Criteria

AUTHORITY: The provisions of Part 1910 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968, 42 U.S.C. 4001–4127, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968); 5 U.S.C. 553; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and Secretary's designation of Acting Federal Insurance Administrator, 33 F.R. 11794, Aug. 20, 1968.

Subpart A—General

§ 1910.1 Purpose of Subpart A.

(a) Pursuant to Section 1305(c) of the Act, flood insurance shall be available only in States or areas (or subdivisions thereof) which the Administrator determines:

(1) Have evidenced a positive interest in securing coverage under the flood insurance program; and

(2) Have given satisfactory assurances (i) that by June 30, 1970, land use and control measures, with effective enforcement provisions, will have been adopted by the State or area (or subdivision thereof) which are consistent with such criteria for land management and use as may be developed by the Administrator from time to time and published in this part, and (ii) that application and enforcement of such measures will commence as soon as the necessary technical information on floodways and controlling flood elevations is available.

(b) This subpart (1) describes and provides instructions for submission of (i) satisfactory evidence of positive interest in flood insurance coverage and (ii) satisfactory assurances of intent to comply with land use requirements, and (2) lists the considerations to be used in establishing priorities for surveys to provide a basis for insurance rate determinations.

(c) On receipt of satisfactory evidence of positive interest in flood insurance coverage, the Administrator will place the State or area (or subdivision thereof) on a register of areas eligible for rate-making determinations. Flood insurance will be made available as soon as practicable after satisfactory assurances of intent to comply with land management and use criteria have been submitted and rates have been established.

§ 1910.2 Priority for rate determination—evidence of positive interest.

(a) Priority in conducting studies and investigations and making estimates of risk premium rates for flood insurance will be given to those States or areas (or subdivisions thereof) which the Administrator determines to have officially evidenced a positive interest in securing flood insurance coverage under this program. The Administrator may give priorities within individual States to those local areas identified by an appropriate State agency as having the greatest need for flood insurance.

(b) Such evidence of positive interest at a minimum shall include, but shall not be limited to:

(1) Official legislative and executive actions, specifically applicable to the area for which such coverage is sought, by the duly constituted State or local bodies, agencies, or officials for such area, indicating:

(i) That there is a recognized public need for flood insurance;

(ii) The extent, if any, to which public and private flood plain management activities, including zoning, building codes, easements, and other flood plain regulatory measures, have been instituted; and

(iii) A willingness to take such other official actions as may be necessary to carry out the objectives of the program. Such actions should include cooperation with the Federal, State, and local agencies which undertake to study, survey, map, and identify flood-prone areas in individual localities; and the identification and evaluation of local flood hazards based upon current flood plain information reports.

For States, such official actions should include the enactment of enabling legislation, wherever necessary, conferring authority upon counties, cities, and other political subdivisions to enact and enforce land use measures, codes, and ordinances designed to reduce the exposure of property to flood losses;

(2) Materials which generally:

(i) Identify the proposed boundaries of the flood-prone areas for which flood insurance is sought, giving the relevant flooding history and flood plain characteristics;

(ii) Cite the legal authority for local or statewide flood plain regulation; and

(iii) Identify the rivers, bays, gulfs, lakes, or other bodies of water causing the flooding problems.

(c) The required evidence of interest and supporting documentation should be sent to the Federal Insurance Administrator, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

(d) Those States or areas which comply with the requirements of paragraph (b) of this section will be placed on a register of areas eligible for rate-making studies. Areas for rate-making studies will be selected from this register on the basis of the following considerations:

(1) Location of area and exposure to flood damage;

(2) Urgency of need for flood insurance and evidence of initiation of local flood plain management activities;

(3) Population of area and intensity of existing or proposed flood plain development;

(4) Availability of information for the area with respect to flood characteristics and damage;

(5) Recommendations of State officials as to areas within States which should have priorities in flood insurance availability;

(6) Extent of State and local progress in flood plain management, including actual adoption by the area of land use regulations consistent with related ongoing programs in the area; and

(7) Assurances that any additional land use and control measures necessary in accordance with § 1910.3(a)(2) will be adopted.

§ 1910.3 Conditions for insurance availability—assurances.

(a) Satisfactory assurances of intent to comply with land management and use criteria shall include as a minimum:

(1) Citation of the legal authority to adopt land use and control measures for the flood plain in any or all parts of the jurisdiction submitting the assurances; and

(2) Legislative action by the appropriate local government or public body committing the jurisdiction:

(i) To recognize and evaluate flood hazards in all actions relating to land use in the flood plain areas having special flood hazards,

(ii) To enact by June 30, 1970, and maintain in force for those areas, land use and control measures with effective enforcement provisions consistent with the criteria set forth in Subpart B,

(iii) To cooperate with neighboring jurisdictions with respect to adjoining drainage areas and flood plains in order to prevent the aggravation of the flooding problem in the lower flood plain areas, and

(iv) To appoint or designate an agency or official with the responsibility, authority, and means to implement the commitment made herein.

(b) After taking the legislative action referred to in paragraph (a)(2) of this section, the local government shall:

(1) Submit to the Administrator the name of such agency or official when designated;

(2) Direct such agency or official to furnish, on request by an appropriate Federal or State agency or by a designated representative of the National Flood Insurers Association, information for each structure constructed within the area of special flood hazards after flood insurance is first made available in the community concerning (i) its first floor elevation; and (ii) if there is a basement, the distance down from the first floor to the bottom of the lowest opening where water flowing over the ground would enter; and

(3) Further direct such agency or official to assist the Administrator in furthering delineating, on available local maps of sufficient scale to identify the location of structures, the limits of the flood plain having special flood hazards as identified by the Administrator pursuant to section 1360 of the Act and as shown on the Official Flood Hazard Map.

(c) The required assurances should be submitted in duplicate to the Federal Insurance Administrator, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, and shall include appropriate documentation.

(d) After June 30, 1970, no flood insurance coverage shall be provided or renewed under the program in any State or area (or subdivision thereof) unless an appropriate public body shall have adopted land use and control measures with effective enforcement provisions, which the Administrator finds to be consistent with the criteria for land management and use set forth in Subpart B of this part.

(e) In the event insurance under the program is made available in a State or area (or subdivision thereof), a duly authorized official thereof shall submit annually to the Administrator a report in triplicate as to the progress which has been made during the past year in the development and implementation of its flood plain land management and use measures. Copies of the annual report shall be submitted by such official to such coordinating agency as may be designated by each Governor and to other approprite State and regional bodies. The Administrator shall be informed of the agencies to which the annual reports have been sent.

Subpart B—Criteria

§ 1910.51 Purpose of criteria.

In accordance with section 1361 of the Act, the purpose of the criteria set forth in this subpart is to encourage, where necessary and within the framework of revelant comprehensive flood plain management plans, the adoption of State and local measures which, to the maximum extent feasible, will accomplish the following objectives:

(a) Constrict the development of land which is exposed to flood damage where appropriate;

(b) Guide the development of proposed construction away from locations which are threatened by flood hazards;

(c) Assist in reducing damage caused by floods; and

(d) Otherwise improve the long-range management and use of flood-prone areas.

§ 1910.52 State and local development goals.

State and local flood plain land use and control measures should contribute to overall community and area-wide social and economic development goals by:

(a) Diverting unwarranted and inappropriate development away from flood-prone areas;

(b) Encouraging flood control and flood damage abatement efforts through public and private means;

(c) Deterring the inappropriate development of public utilities and public facilities in flood-prone areas; and

(d) Requiring such construction and land use practices as will reduce, to the maximum practicable extent, flooding from surface runoff, improper drainage, or inadequate storm sewers.

§ 1910.53 Planning considerations.

The planning and decision-making process for formulating overall community and area-wide social and economic development goals and for adopting related flood plain land use and control measures should include consideration, among others, of the following factors:

(a) Availability for needed development of lands not exposed to flooding;

(b) Possibilities for reserving certain flood hazard areas for private and public open space purposes;

(c) Potential adverse effects of inappropriate flood-plain development on other flood-prone areas;

(d) Opportunities for flood-proofing to reduce the flood hazard;

(e) Need for flood warning and emergency preparedness plans;

(f) Necessity for improving local drainage and for controlling any increased runoff which might increase the danger of flooding elsewhere in the area;

(g) Importance of coordination with neighboring soil and water conservation programs;

(h) For coastal areas, necessity of establishing programs for building bulkheads, seawalls, breakwaters, and other damage abatement structures, and for preserving natural barriers to flooding (such as sand dunes and vegetation); and

(i) Possibilities of acquiring land or land development rights for purposes consistent with effective flood plain management.

§ 1910.54 State coordination.

(a) State participation in furthering the objectives of these criteria may include:

(1) Enacting where necessary, enabling legislation which confers upon counties and municipalities the authority to regulate flood plain land use in inland and coastal areas;

(2) Designating an agency of the State government to be responsible for coordinating Federal, State, and local aspects of flood plain management activities in that State;

(3) Delineating the floodways for rivers and streams, and the special flood hazard areas of coastal regions;

(4) Establishing minimum flood plain regulation standards consistent with those established in this part;

(5) Guiding and assisting municipal and county public bodies and agencies in developing flood plain management plans and land use control measures;

(6) Recommending priorities for rate-making studies among those communities of the State which qualify for such studies;

(7) Communicating flood plain information to local communities and to the general public;

(8) Participating in flood warning and emergency preparedness programs;

(9) Assisting communities in programs to provide information on minimum elevations for structures permitted to be constructed in flood plain areas having special flood hazards; and

(10) Advising appropriate public and private agencies whose activities or projects might obstruct the flow of rivers on the avoidance of unnecessary aggravation of flood hazards.

(b) For States whose flood plain management programs substantially encompass the activities described in paragraph (a) of this section, the Administrator will:

(1) Give special consideration to State priority recommendations before selecting areas or communities for rate-making studies from the register described in § 1910.2; and

(2) Seek State approval of local flood plain land use and control measures before accepting such measures as meeting the criteria established by this subpart.

§ 1910.55 Local coordination.

(a) Local flood plain management, flood forecasting, flood emergency preparedness, and flood control and flood damage abatement programs should be coordinated with relevant regional, State, and Federal programs.

(b) Localities adopting land use and control measures pursuant to these criteria should arrange for the coordination with the designated State agency of its program of information and education designed to promote public acceptance and use of sound flood plain management practices.

§ 1910.56 Land use and control measures.

(a) All appropriate statutes, ordinances, regulations, and similar measures, whether applicable on a statewide, regional, or local basis, should provide land use restrictions based on probable exposure to flooding. Such measures must be applicable at a minimum to the identified area having special flood hazards.

(b) As appropriate, there should be included in such measures a clear and comprehensive statement that such measures are intended to encourage only that development of the identified flood-prone areas which (1) is appropriate in the light of the probability of flood damage and (2) represents an acceptable social and economic use of the land in relation to the hazards involved, and to discourage all other development.

(c) The measures specified in paragraph (a) of this section should:

(1) Prohibit inappropriate new construction or substantial improvements in the floodway;

(2) Control land uses and elevations of all new construction within the flood plain outside of the floodway;

(3) For coastal flood plain areas (i) prescribe land uses and minimum elevations of the first floors of buildings and (ii) include consideration of the need for bulkheads, seawalls, and pilings;

(4) Be based on competent evaluation of the flood hazard as revealed by current authoritative flood plain information; and

(5) Be consistent with (i) existing flood plain management programs affecting the areas adjacent to the jurisdiction involved and (ii) applicable State standards.

Such measures should take into account the relation between first floor elevations and the anticipated level of the 100-year flood for the purpose of protecting structures and their contents from the damage which could result from such a flood.

§ 1910.57 Subdivision planning requirements.

In addition to land use restrictions commensurate with the degree of the flood hazards in various parts of the area, there should also be such subdivision regulations as may be necessary (a) to prevent the inappropriate development of flood-prone lands; (b) to encourage the appropriate location and elevation of public utilities and facilities, such as streets, sewers, gas electricity, and water systems; (c) to provide for adequate drainage so as to minimize exposure to flood hazards and to prevent the aggravation of flood hazards; and (d) to require such minimum elevation of all new development as may be appropriate.

§ 1910.58 Building and health code requirements.

Applicable State and local building codes and health regulations should require that proposed improvements and developments in flood-prone areas will:

(a) Properly elevate structures so as to assure protection from reasonably expected flooding;

(b) Design buildings so as to prevent flotation and collapse, giving special attention to the adequacy of foundations, and to prevent damage to nonstructural elements;

(c) Provide for the protection of the heating system and other critical mechanical or electrical installation from damage by flooding;

(d) Not create unhealthful areas of pondage or accumulation of debris and obstacles in flooding situations;

(e) Provide adequate sewerage and water systems which will not be adversely affected by flooding;

(f) Provide adequate controls on the placement of septic tanks to avoid contamination during flooding; and

(g) Require and encourage flood proofing, to the maximum extent practicable, in connection with all proposed major improvements, repairs, and rehabilitations of existing structures.

§ 1910.59 Revisions.

From time to time these criteria for land management and use may be revised by the Administrator. Such revisions will be based on such further studies and investigations as may be conducted in connection with the program under section 1361 of the Act.

PART 1911—INSURANCE COVERAGE AND RATES

AUTHORITY: The provisions of this Part 1911 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968, 42 U.S.C. 4001–4127, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968); 5 U.S.C. 553; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and Secretary's designation of Acting Federal Insurance Administrator, 33 F.R. 11794, Aug. 20, 1968.

Subpart A—Availability of Insurance Coverage

§ 1911.1 Special definitions.

The definitions set forth in § 1909.1 of this chapter are applicable to this part except that, for the purposes of this part:

(a) "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters or (2) the unusual and rapid accumulation or runoff of surface waters from any source; and

(b) "Structure," unless the context indicates otherwise, means a residential building designed for the occupancy of from one to four families, including such buildings while in the course of construction, but does not include building materials or supplies intended for use in the construction, alteration, or repair of such structure or any private structure appurtenant thereto unless within an enclosed building on the premises or removed for protection against the peril of flood, as provided by the policy.

§ 1911.2 Purpose of part.

This part prescribes the types of properties eligible for flood insurance coverage under the program, the limits of such coverage, and the premium rates actually to be paid by the insured. The specific areas eligible for coverage will be designated by the Administrator from time to time as individual rate-making studies are completed. Such areas will be periodically set forth under Part 1914 of this chapter.

§ 1911.3 Types of properties eligible for coverage.

(a) Insurance coverage for structures under the program is currently available only for residential properties designed for the occupancy of from one to four families. Coverage for properties occupied by small business concerns and for other classes of properties is expected to be available at a later date.

(b) Insurance coverage for contents is available only in connection with the residential properties described in paragraph (a) of this section but may be purchased separately from structure coverage by either the building owner or a tenant.

§ 1911.4 Limitations on coverage.

(a) All flood insurance made available under the program is subject:

(1) To the terms and conditions of the Standard Flood Insurance Policy,

which shall be approved by the Administrator as to both substance and form;

(2) To the specified limits of coverage set forth in the application and declarations page of the policy; and

(3) To the maximum limits of coverage set forth in paragraph (c).

(b) Insurance under the program is available only for loss due to flood, as defined in § 1911.1. The policy covers damage from general flooding which results from other than natural causes, such as the bursting of a dam, but does not cover water damage which results from causes on the insured's own property or within his control or from a condition which does not cause general flooding in the area.

(c) The policy does not cover losses from rain, snow, sleet, hail, or water spray. It covers losses from freezing or thawing, or from the pressure or weight of ice and water, only where they occur simultaneously with and as a part of flood damage. It does not cover damage from mud slides, earthquakes, or other earth movements.

(d) The policy protects against loss to dwelling and contents only at the location described in the application, except that contents necessarily removed from the premises for preservation from a flood are also protected against loss or damage from flood at the new location pro rata for a period of 30 days.

(e) The maximum limits of coverage of the policy are the following:

(1) $35,000 aggregate liability for any dwelling unit, and $60,000 for any single structure containing more than one dwelling unit, and

(2) $10,000 aggregate liability per dwelling unit for any contents related to such unit.

(f) The policy contains the following terms and conditions which should be especially noted:

(1) No flood insurance is available for properties declared by a duly constituted State or local zoning or other authority to be in violation of any flood plain management or control law, regulation, or ordinance.

(2) In order to reduce the administrative costs of the program, of which the Federal Government pays a major share, payment of the full policyholder premium must be made at the time of application.

(3) The policy contains a deductible clause. Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The amount of this deductible is either $100 for each type of loss (that is, $100 on the structure and $100 on contents) or 2 percent of the amount of insurance applicable to the type of loss, whichever is the greater.

(4) The policy contains a coinsurance clause applicable to structures. The purpose of this clause is to discourage an insured from underinsuring his property, since underinsurance places a disproportionate risk of loss on the program in relation to the premium paid. The coinsurance clause requires that the insured carry an amount of insurance on his building equal to 80 percent of its value. If he fails to do so, any partial loss claim under the program in excess of the applicable deductible will be paid only in the proportion that the amount of insurance purchased on the building bears to 80 percent of the actual cash value of the building at the time of the loss.

(5) The insured may apply up to, but not in excess of, 10 percent of the face amount of the policy to appurtenant structures and outbuildings (such as carports, garages, and guest houses) if they do not constitute a separate residence. If they do constitute a separate residence, or a residential structure still under construction, they must be insured under a separate policy.

(6) The following are not insurable under the program: fences, boathouses, wharves, piers, docks, and other structures located on or partially over water and property therein or thereon.

(7) The policy contains certain exclusions (such as money and securities) and limitations (such as on paintings and jewelry) with respect to the coverage on contents it provides. In addition, the coverage on contents excludes birds or animals, most motor vehicles, boats, trailers, business property, and certain other types of property.

(8) The policy may be canceled by the insurer only for nonpayment of premium. However, any willful fraud or concealment of any material fact by the insured at any time voids the entire policy.

Subpart B—Actuarial and Chargeable Premium Rates

§ 1911.51 General.

(a) Pursuant to section 1307 of the Act, the Administrator is authorized to undertake studies and investigations to enable him to estimate the risk premium rates necessary to provide flood insurance in accordance with accepted actuarial principles, including applicable operating costs and allowances. Such rates are herein referred to as "actuarial rates."

(b) The Administrator is also authorized to estimate the rates, if lower than the actuarial rates, which could reasonably be charged to prospective insureds in order to encourage them to purchase the flood insurance made available under the program. Such rates are herein referred to as "chargeable rates."

§ 1911.52 Applicability of actuarial rates.

Actuarial rates are applicable:

(a) To all flood insurance coverage made available to any property, the construction or substantial improvement of which was started (as defined in § 1909.1 of this chapter) after the Administrator has identified the area in which the property is located as an area having special flood hazards under Part 1915 of this chapter;

(b) To all insurance coverage in excess of the following limits:

(1) $17,500 aggregate liability for any dwelling unit, and $30,000 for any single structure containing more than one dwelling unit; and

(2) $5,000 aggregate liability per dwelling unit for any contents related to such unit; and

(c) Whenever the actuarial rates estimated by the Administrator for the designated area are lower than the chargeable rates prescribed by § 1911.53.

§ 1911.53 Establishment of chargeable rates.

(a) Pursuant to section 1308 of the Act, the following chargeable rates are established for all areas designated by the Administrator under Part 1914 of this chapter for the offering of flood insurance:

(1) The chargeable rate for structures shall be forty cents ($0.40) per year per one hundred dollars ($100) of flood insurance coverage; and

(2) The chargeable rate for contents shall be fifty cents ($0.50) per year per one hundred dollars ($100) of flood insurance coverage.

(b) The rates in paragraphs (a)(1) and (a)(2) of this section shall apply only to insurance coverage provided within the limits specified by § 1911.52 (b) (1) and (2).

§ 1911.54 Minimum policyholder premiums.

The minimum policyholder premium required for any policy, regardless of the amount of coverage, is $25. The minimum policyholder premium required for any added coverage or increase in the amount of coverage during the term of an existing policy is $4, regardless of the length of the unexpired term of the policy at the time of the change.

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Subpart A—Issuance of Policies

Subpart B—Claims Adjustment and Judicial Review

AUTHORITY: The provisions of this Part 1912 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4127, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968); 5 U.S.C. 553; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and Secretary's designation of Acting Federal Insurance Administrator, 33 F.R. 11794, Aug. 20, 1968.

Subpart A—Issuance of Policies

§ 1912.1 Purpose.

The purpose of this part is to set forth the manner in which flood insurance under the program is made available to the general public in those areas designated by the Administrator under Part 1914 of this chapter, and to prescribe the general method by which claims for losses are paid.

§ 1912.2 National Flood Insurers Association.

(a) Pursuant to sections 1331 and 1332 of the Act, the Administrator has encouraged the formation of an industry flood insurance pool known as the National Flood Insurers Association (the "Association") and has entered into an agreement with the Association (the "Agreement") whereby the Association will provide the flood insurance coverage under the program in the areas designated by the Administrator and will assume the responsibility for the adjustment and payment of claims for losses.

(b) Membership in the Association shall be open to any insurance company or other insurer which:

(1) Is authorized to engage in the insurance business under the laws of any State;

(2) Has total assets of at least $1 million;

(3) Agrees to assume a minimum net loss liability of $25,000 under policies of insurance issued in the name of the Association for each accounting period of membership;

(4) Pays an admission fee equal to $50 for each $25,000 of participation; and

(5) Agrees to such other reasonable conditions as the Association may prescribe, subject to the approval of the Administrator.

(c) No insurer shall be admitted to membership in the Association for a term less than a full accounting period, nor subsequent to July 1 of any accounting period.

(d) The accounting period of the Association shall be the fiscal year beginning on July 1 and ending on June 30, except that the first accounting period shall run from June 6, 1969, to June 30, 1970.

(e) Any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization desiring to cooperate with the Association as fiscal agent or otherwise, will be permitted to do so to the maximum extent practicable.

(f) The Association has contracted to use its best efforts to arrange for the issuance of policies of flood insurance to any person qualifying for such coverage under Parts 1911 and 1914 of this chapter, pursuant to applications submitted by any such person to either member or nonmember companies in accordance with the terms and conditions of the Agreement.

(g) Communications concerning membership in or cooperation with the Association should be addressed directly to the National Flood Insurers Association, 125 Maiden Lane, New York, N.Y. 10038.

§ 1912.3 Limitations on sale of policies.

(a) Each participating or cooperating insurer offering flood insurance under the program shall be deemed to have agreed, as a condition of such participation or cooperation, that it shall not offer flood insurance under any authority or auspices in any amount within the maximum limits of coverage specified in § 1911.4(e) of this chapter, in any area designated by the Administrator in Part 1914 of this chapter for the offering of insurance under the program, other than in accordance with this part, the Agreement, and the Standard Flood Insurance Policy issued pursuant thereto. Violation of this condition shall, at the discretion of the Administrator, exclude the violator from any further membership in or cooperation with the Association or the program.

(b) The Agreement and all flood insurance policies issued thereunder are subject to title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and to the applicable Federal regulations and requirements issued from time to time pursuant thereto. No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the program, on the ground of race, color, or national origin. Any complaint or information concerning the existence of any such unlawful discrimination in any matter within the purview of this part should be referred to the Administrator.

Subpart B—Claims Adjustment and Judicial Review

§ 1912.51 Claims adjustment.

(a) In accordance with the Agreement, the Association shall arrange for the prompt adjustment and settlement of all claims arising from policies of insurance issued under the program. Investigation of such claims may be made through the facilities of its members, nonmember insurers, or insurance adjustment organizations, to the extent required and appropriate for the expeditious processing of such claims. Settlements so made and loss adjustment expenses so incurred shall, subject to audit, be binding on the Administrator.

(b) All adjustment of losses and settlements of claims shall be made in accordance with the terms and conditions of the policy and these Parts 1911 of this chapter and 1912.

§ 1912.52 Judicial review.

Upon the disallowance by the Association of any claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within 1 year after the date of mailing of the notice of disallowance or partial disallowance of the claim, may, pursuant to section 1333 of the Act, institute an action on such claim against either the Association or the participating insurer which denied the claim, in the U.S. district court for the district in which the insured property or the major portion thereof shall have been situated, without regard to the amount in controversy.

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Sec.
1914.1 Purpose.
1914.2 Official Flood Insurance Map.
1914.3 List of designated areas.

AUTHORITY: The provisions of this Part 1914 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4127, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968); 5 U.S.C. 553; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and Secretary's designation of Acting Federal Insurance Administrator, 33 F.R. 11794, Aug. 20, 1968.

§ 1914.1 Purpose.

Sections 1360 and 1307 of the Act contemplate that flood insurance under the program will be offered in designated areas only after the Administrator has identified the general area as one having special flood hazards under Part 1915 of this chapter and has completed a rate-making study for such area. A period of 15 years, ending August 1, 1983, has been allotted for this purpose. The priorities for conducting such rate-making studies are set forth in Part 1910. It is the purpose of this Part 1914 to list those areas in which rate-making studies have been concluded and the sale of insurance has been authorized. Additional areas will be added to this list from time to time as the necessary information becomes available and the requirements set forth in Part 1910 of this chapter have been met.

§ 1914.2 Official Flood Insurance Map.

Areas for which the Administrator has authorized the sale of flood insurance shall be designated on an Official Flood Insurance Map, which shall be maintained and made available for public inspection during business hours at the following locations:

(a) Information Center, Department of Housing and Urban Development, Room 1202, 451 Seventh Street SW., Washington, D.C. 20410;

(b) National Flood Insurers Association, 125 Maiden Lane, New York, N.Y. 10038;

(c) The information office of the State agency or agencies designated by each State to cooperate with the Administrator in implementing land management and use criteria and in providing flood insurance within such State, which shall be listed in this part whenever practicable simultaneously with the first offering of flood insurance within that State; and

(d) One or more official locations within the community or locality in which flood insurance is offered, which shall be specified in this part at the time the eligibility of the area is announced.

§ 1914.3 List of designated areas. [Reserved]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

Sec.
1915.1 Purpose.
1915.2 Official Flood Hazard Map.
1915.3 List of flood hazard areas. [Reserved]

AUTHORITY: The provisions of Part 1915 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968, 42 U.S.C. 4001–4127, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968); 5 U.S.C. 553; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and Secretary's designation of Acting Federal Insurance Administrator, 33 F.R. 11794, Aug. 20, 1968.

§ 1915.1 Purpose.

Sections 1360 and 1308(c) of the Act contemplate that the Administrator will identify and publish periodically over a 5-year period, ending August 1, 1973, information with respect to all flood plain areas having special flood hazards and that, once any such area has been so identified, flood insurance will not be made available at chargeable rates within such area with respect to any property which is thereafter constructed or substantially improved, as defined in § 1909.1 of this chapter. It is the purpose of this Part 1915 to list those areas which have been identified by the Administrator as having such special flood hazards. Additional areas will be added to this list from time to time as the necessary information becomes available.

§ 1915.2 Official Flood Hazard Map.

Areas which the Administrator has identified as flood plain areas having special flood hazards will be delineated on an Official Flood Hazard Map, which shall be maintained and made available for public inspection at the same times and places as those indicated in § 1914.2 of this chapter.

§ 1915.3 List of flood hazard areas. [Reserved]

Effective date. This subchapter shall be effective on publication in the FEDERAL REGISTER.

WILLIAM B. ROSS,
Acting Federal Insurance Administrator.

[F.R. Doc. 69-7220; Filed, June 17, 1969; 8:51 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Specially Adapted Housing

In § 3.809, paragraphs (b) and (d) are amended to read as follows:

§ 3.809 Specially adapted housing.

* * * * *

(b) *Disability.* The disability must have been incurred or aggravated as the result of service as indicated in paragraph (a) of this section and the veteran must be entitled to compensation for permanent and total disability due to:

(1) The loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or

(2) Blindness in both eyes, having only light perception, plus the anatomical loss or loss of use of one lower extremity, or

(3) The loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair.

* * * * *

(d) *"Preclude locomotion."* This term means the necessity for regular and constant use of a wheelchair or other mechanical aid or contrivance as a normal mode of locomotion although occasional locomotion by other methods may be possible. (38 U.S.C. 801, 804; Public Law 91-22)

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

This VA regulation is effective June 6, 1969.

Approved: June 12, 1969.

[SEAL] FRED B. RHODES,
Acting Administrator.

[F.R. Doc. 69-7194; Filed, June 17, 1969; 8:49 a.m.]

PART 36—LOAN GUARANTY

Miscellaneous Amendments

1. Section 36.4352 is revised to read as follows:

§ 36.4352 Tax, special assessment and other liens.

Tax liens, special assessment liens, and ground rents shall be disregarded with respect to any requirement that loans shall be secured by a lien of specified dignity. With the prior approval of the Administrator, Chief Benefits Director, or Director, Loan Guaranty Service, liens retained by nongovernmental entities to secure assessments or charges for municipal type services and facilities clearly within the public purpose doctrine may be disregarded. In determining whether a loan for the purchase or construction of a home is secured by a first lien the Administrator may also disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if he determines that the interests of the veteran-borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien to be created after June 6, 1969, the Administrator's determination must have been made prior to the recordation of the covenant.

2. In § 36.4502, paragraph (a) is amended to read as follows:

§ 36.4502 Use of guaranty entitlement.

(a) The guaranty entitlement of the veteran obtaining a direct loan which is closed on or after May 7, 1968, shall be charged with an amount which bears the same ratio to $12,500 as the amount of the loan bears to $21,000 or to such increased maximum as the Administrator may from time to time specify for the area in which the loan is made pursuant to section 1811(d) of title 38, United States Code. The charge against the entitlement of a veteran who obtained a direct loan which was closed prior to the aforesaid date, or the date on which an increased maximum is established pursuant to section 1811(d) for the area in which the loan security is located, shall be the amount which would have been charged had the loan been closed subsequent to such date.

* * * * *

3. In § 36.4503, paragraph (a) is amended to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after May 7, 1968, shall not exceed an amount which bears the same ratio to $21,000 (or to such increased maximum as the Administrator may from time to time specify for the area in which the loan is made pursuant to section 1811(d) of title 38, United States Code) as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $12,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 7½ percent per annum, except where a commitment to make the loan was issued prior to January 27, 1969, in which case the rate of interest shall be that applicable on the date such commitment was issued.

* * * * *

4. In § 36.4504(b), subparagraph (1) is amended to read as follows:

§ 36.4504 Loan closing expenses.

* * * * *

(b) With respect to a loan made to a veteran-borrower pursuant to an application (VA Form 26-6921) received by the Veterans Administration on or after March 3, 1966, the borrower shall pay the Veterans Administration the following:

(1) $50, or one percent (1%) of the loan amount, whichever is greater, which charge shall be in lieu of the loan closer's fee, credit report, and cost of appraisal: *Provided*, That if the loan is to finance the cost of construction, repairs, alterations, or improvements necessitating disbursements of the loan proceeds as the construction or other work progresses, the charge to the veteran-borrower shall be two percent (2%) of the loan amount, but not less than $50 in any event. In addition to the foregoing fee, borrowers whose entitlement is derived from 38 U.S.C. 1818, shall remit to the Veterans Administration a fee of one-half of 1 per centum of the loan amount, exclusive of any amount included in the loan to enable the borrower to pay such fee. If all or part of the fee is included in the loan to the veteran, the amount of the loan as so increased may not exceed $21,000 or such increased maximum as the Administrator may from time to time specify for the area in which the loan is made pursuant to section 1811(d) of title 38, United States Code. Notwithstanding the foregoing provisions, a veteran deriving entitlement under 38 U.S.C. 1818 shall not be required to remit the fee if (i) the period

of his entitlement based on service during World War II or the Korean conflict has not expired under section 1803(a)(3) of title 38, United States Code, and (ii) he has not used any of his entitlement derived from such service.

* * * * *

5. In § 36.4509, paragraph (b) is amended to read as follows:

§ 36.4509 Joint loans.

* * * * *

(b) Notwithstanding that an applicant and his spouse both be eligible veterans and will be jointly and severally liable as borrowers, the original principal amount of the loan may not exceed the maximum permissible under § 36.4503 (a). In any event the loan may not exceed $21,000 or such increased maximum as the Administrator may from time to time specify for the area in which the loan is made pursuant to section 1811 (d) of title 38, United States Code.

6. In § 36.4511, paragraph (a) is amended to read as follows:

§ 36.4511 Advances after loan closing.

(a) The Veterans Administration may at any time advance any sum or sums as are reasonably necessary and proper for the maintenance, repair, alteration, or improvement of the security for a loan or for the payment of taxes, assessments, ground or water rights, or casualty insurance thereon: *Provided,* That no advance shall be made for alterations or improvements which are not necessary for the maintenance or repair of the security if such advance will increase the indebtedness to an amount in excess of $21,000 or such increased maximum as the Administrator may from time to time specify for the area in which the loan is made pursuant to section 1811(d) of title 38, United States Code.

* * * * *

7. In § 36.4516, paragraph (c) is amended to read as follows:

§ 36.4516 Lien requirements.

* * * * *

(c) Tax liens, special assessment liens, and ground rent shall be disregarded with respect to any requirement that loans shall be secured by a lien of specified dignity. With the prior approval of the Administrator, Chief Benefits Director, or Director, Loan Guaranty Service, liens retained by nongovernmental entities to secure assessments or charges for municipal type services and facilities clearly within the public purpose doctrine may be disregarded. In determining whether a loan for the purchase or construction of a home is secured by a first lien the Administrator may also disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if he determines that the interests of the veteran-borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien to be created after June 6, 1969, the Administrator's determination must have been made prior to the recordation of the covenant.

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

These VA regulations are effective June 6, 1969.

Approved: June 11, 1969.

[SEAL] FRED B. RHODES,
Acting Administrator.

[F.R. Doc. 69-7195; Filed, June 17, 1969; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 717]

HOLDING OF REFERENDA

Notice of Proposed Rule Making

Notice is hereby given that pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended, the Department proposes to amend the regulations governing the holding of referenda.

The proposed amendment would accomplish the following purposes:

(1) The definition of referendum community in § 717.1(c) would be amended to include the rule expressed in § 717.4 that the entire county shall be the referendum community for purposes of referenda held by mail ballot. In addition, for purposes of referenda held at polling places, the entire county would be established as the referendum community in cases where there are less than 100 farms on which there are eligible producers unless the county committee determined that more than one referendum community was needed. Presently the county committee is required to take action to reach this result.

(2) Section 717.22 would be revised to add the procedure for State reporting of referenda results to the Deputy Administrator in case of mail ballot referenda in a manner similar to that prescribed in § 717.17 for referenda held at polling places.

Prior to the issuance of this amendment, any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Farmer Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration provided such submissions are postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

It is proposed that Part 717—Holding of Referenda (33 F.R. 18345) be amended as follows:

1. The Table of Contents would be amended by changing the heading of § 717.22 to read as follows:

Sec.
717.22 Reporting and record of result of the referendum.

2. Paragraph (c) of § 717.1 would be revised to read as follows:

§ 717.1 Definitions.

* * * * *

(c) *Referendum community.* For referenda conducted by mail ballot, the entire county shall be the referendum community. For referenda conducted at polling places, the referendum community shall conform with the community established by the State committee for purposes of elective areas under the regulations in the subpart—Selection and Functions of Agricultural Stabilization and Conservation County and Community Committees in Part 7, Subtitle A, of this Title (§ 7.7, 33 F.R. 12955), as amended from time to time: *Provided*, That a referendum community may be composed of an area differing from the community so established in the following cases:

(1) A referendum community may be established by the county committee, with the approval of a representative of the State committee, to conform to a political township, a local voting precinct for purposes of general elections, or a combination of such townships or precincts;

(2) A referendum community may be established by the county committee, if it determines eligible producers will be given a convenient place to vote, which consists of a combination of a community with less than 25 farms on which there are producers eligible to vote, with one or more communities; and

(3) The entire county shall be the referendum community in counties with less than 100 farms on which there are producers eligible to vote unless the county committee, with the approval of the State committee, determines that more than one referendum community is needed in the county.

The county committee shall maintain in the county office, and make available for public inspection, a descriptive list of the referendum communities established for the county for referenda conducted at polling places.

3. Section 717.22 would be revised to read as follows:

§ 717.22 Reporting and record of result of the referendum.

(a) *County committee.* The county committee shall notify the State committee by telephone, telegraph, or messenger (who may be a member of the county committee), as to the preliminary count of the votes on each question and the number of challenged ballots as soon as possible. The county committee shall, as soon as may be reasonably possible, but in no event later than 4 calendar days after canvassing of the ballots, have prepared and certified the county summary of ballots. Such summary shall be prepared and certified in triplicate, one copy of which shall be sent to the State committee, one copy posted for 30 calendar days in a conspicuous place accessible to the public in or near the office of the county committee, and one copy filed in the office of the county committee and kept available for public inspection.

(b) *State committee.* The State committee for each State shall notify the Deputy Administrator by telephone or telegraph as to the preliminary count of the votes in the State as soon as the preliminary results of the referendum are made known to the State committee. The county summaries of ballots shall be summarized on the State summary of ballots as soon as possible, but in no event later than 7 calendar days after canvassing of the ballots, unless there is a dispute or challenge regarding the correctness of the summary for any county, in which case the State committee shall complete its investigation thereof, decide the dispute or challenge, and prepare the State summary accordingly within 14 calendar days after canvassing of the ballots. The State summary shall be prepared in triplicate and certified to by the State executive director. The original and one copy of the State summary shall be forwarded to the Director, Policy and Program Appraisal Division, ASCS. One copy of the State summary shall be filed for a period of 5 years in the office of the State committee available for public inspection.

Signed at Washington, D.C., on June 12, 1969.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 69-7181; Filed, June 17, 1969; 8:48 a.m.]

Consumer and Marketing Service

[7 CFR Part 912]

[Docket No. AO-333-A3]

HANDLING OF GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Decision and Referendum Order With Respect to Proposed Amendment of Marketing Agreement and Order

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), a public hearing was held at Vero Beach, Fla., on February 25, 1969, after notice thereof published in the FEDERAL REGISTER (34 F.R. 1253) on proposed further amendment of the marketing agreement and order (7 CFR Part 912) regulating the handling of grapefruit grown in the Indian River District in Florida, to be made effective

pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

On the basis of evidence adduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, Consumer and Marketing Service, on May 2, 1969, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F.R. Doc. 69–5498; 34 F.R. 7452). No exception was filed.

The material issues, rulings, findings, and conclusions, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 69–5498; 34 F.R. 7452) are hereby approved and adopted as the material issues, rulings, findings, and conclusions, and the general findings of this decision as if set forth in full herein.

Further amendment of the marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Grapefruit Grown in the Indian River District in Florida" and "Order Amending the Order, as Amended, Regulating the Handling of Grapefruit Grown in the Indian River District in Florida" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among the producers who, during the period August 5, 1968, through May 4, 1969 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged in the Indian River District in Florida in the production of grapefruit for market to ascertain whether such producers favor the issuance of said annexed order.

Minard F. Miller, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, is hereby designated referendum agent of the Secretary of Agriculture to conduct said referendum.

The procedure applicable to such referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.).

The ballots used in such referendum shall contain a summary describing the terms and conditions of the proposed amendment of the order.

Copies of the aforesaid annexed order and of the aforesaid referendum procedure may be examined in the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum, and other necessary forms and instructions, may be obtained from the referendum agent or any appointee.

It is hereby ordered, That all of this decision and referendum order, except the annexed amended marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement are identical with those contained in the said order, as amended and further amended by the annexed order which will be published with this decision.

Dated: June 13, 1969.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] *Amending the Order, as Amended, Regulating the Handling of Grapefruit Grown in the Indian River District in Florida*

§ 912.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and each of the previously issued amendments thereto; and all of the 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) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Vero Beach, Fla., February 25, 1969, upon proposed amendment of the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended and as hereby further amended, regulates the handling of grapefruit grown in the Indian River District in Florida in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which a hearing has been held;

(3) The order, as amended and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the Indian River District in Florida which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of grapefruit grown in the Indian River District, as defined in the order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of grapefruit grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of this order, as amended and as hereby further amended, as follows:

§ 912.46 [Amended]

1. The world "calendar" is deleted wherever it appears in § 912.46.

§ 912.47 [Amended]

2. The word "calendar" is deleted wherever it appears in § 912.46.

3. Section 912.48 *Prorate bases* is revised by revising paragraph (d) thereof to read as follows and by deleting paragraph (e) thereof:

§ 912.48 Prorate bases.

* * * * *

(d) Each week during the marketing season when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base for each handler who has made application in accordance with the provisions of this section. The prorate base for each such handler shall be computed by adding together the handler's shipments of grapefruit in the current season and his shipments in the immediately preceding seasons, if any, within the representative period, in which he shipped grapefruit and dividing such total by a divisor computed by adding together the number of weeks elapsed in the current season and 51 weeks for each of such immediately preceding seasons within the representative period in which the handler shipped grapefruit. For purposes of this section "representative period" means the three preceding seasons together with the current season; the term "season" means the 51-week period beginning with the first full week in August of any year; and the term "current season" means the period beginning with the first full week in August of the current fiscal period through the fourth full week preceding the week of regulation: *Provided,* That when official shipping records are available to the committee the said "current season" shall extend through the third full week preceding the week of regulation.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

(e) [Deleted.]

4. Section 912.50 *Overshipments* is revised to read as follows:

§ 912.50 Overshipments.

During any week for which the Secretary has fixed the total quantity of grapefruit which may be handled, any person who has received an allotment may handle, in addition to the total allotment available to him, an amount of grapefruit equivalent to 10 percent of such total allotment or 500 boxes, whichever is greater: *Provided*, That the Secretary, on the basis of a recommendation of the committee or other available information, may set such amount at any figure not less than 500 boxes and not more than 1,000 boxes. Handlers may overship (a) during such week the entire 500 boxes or other amount not in excess of 1,000 boxes as may be set by the Secretary, or (b) during two or more consecutive weekly periods when regulations are in effect, any portion of such 500 boxes or any other amount set by the Secretary until the accumulated overshipments reach the applicable maximum number of boxes permitted to be overshipped. The quantity of grapefruit so overshipped when regulations are in effect shall be deducted from such person's allotment for the week following the one in which the total permitted overshipment is reached or for the week in which such person makes no shipments of grapefruit. If such person's allotment for such week is an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset: *Provided*, That any time there is no volume regulation in effect it shall be deemed to cancel all requirements to undership allotment because of previous overshipments pursuant to this part.

5. Section 912.52 *Allotment loans* is revised to read as follows:

§ 912.52 Allotment loans or transfers.

(a) A person to whom allotments have been issued may lend or transfer all or part of such allotment to another such person.

(1) In connection with a loan of allotment, each party to any such loan agreement shall, prior to completion of the agreement, notify the committee of the proposed loan and the date of repayment, and obtain the committee's approval of the agreement.

(2) In connection with the transfer of allotment, each party shall promptly notify the committee so that proper adjustments of records can be made.

(b) The committee may act on behalf of persons desiring to arrange allotment loans or participate in the transfer of allotment. In each case the committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned, which memorandum shall be deemed to satisfy the requirements of paragraph (a) of this section as to notifying the committee and obtaining committee approval.

[F.R. Doc. 69-7183; Filed, June 17, 1969; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Office of Foreign Direct Investments

[15 CFR Part 1000]

FOREIGN DIRECT INVESTMENT REGULATIONS

Notice of Proposed Rule Making

EDITORIAL NOTE: The Foreign Direct Investment Regulations appear in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations ("CFR"). Thus, all sections of the regulations contained in the CFR are preceded by the designation "1000" (e.g., § 1000.201). The "1000" prefix has for convenience been eliminated from the section references contained in this notice. The terms "DI" and "AFN" are used in this notice to refer to "direct investor" and "affiliated foreign national".

Notice is hereby given that the Office of Foreign Direct Investments ("the Office") proposes to make certain miscellaneous amendments to §§ 203, 306, 312, 313, 324, and 1105 of the Foreign Direct Investment Regulations (the "regulations"). The principal purpose of the amendments is to give DIs increased flexibility in the use of proceeds of long-term foreign borrowing as a means of complying with the program, by permitting allocation of such proceeds against positive direct investment (including the reinvested earnings component), and to clarify the rules with respect to the use of such proceeds.

1. *Introduction.* Briefly, and in numerical order, the proposed amendments are as follows:

(a) Section 203(a)(1), which defines "foreign balances", is amended to exclude "available proceeds" of long-term foreign borrowing (as that term is defined in revised section 324(d)) from the definition of "foreign balances". Consequently, section 203(c), which limits the amount of liquid foreign balances which a DI may hold at the end of any month, does not apply to "available proceeds" held in the form of liquid foreign balances. See paragraph (d) below.

(b) Section 203(a)(3), previously a definition of "direct investment liquid foreign balances", is revoked. It is replaced in section 203 by the term "available proceeds" which is defined in section 324(d) as proceeds of long-term foreign borrowing which have not been expended or allocated.

(c) Section 203(b), requiring that books and records be kept which identify separately the amount and use of long-term foreign borrowing, is abbreviated.

(d) Section 203(c) is amended to eliminate the reference to "direct investment liquid foreign balances". Since "allocation", which reduces available proceeds, now requires the repatriation of proceeds of long-term foreign borrowing to the United States prior to the end of the year involved (see paragraph (j) below), the previous concept of "direct investment liquid foreign balances" becoming "liquid foreign balances" after an allocation (see Gen. Bull. No. 1, § B203(g), Ex. 25) is no longer relevant. Section 203(c) continues to require, however, that "liquid foreign balances" held by a DI at the end of any month be reduced to the 1965–66 end-of-month average unless the $25,000 exemption of revised section 203(e)(1) applies. This requirement of section 203(c) applies whether a DI elects the $1,000,000 minimum allowable under section 503, the historical allowable under section 504 (a) and (c), or the 30 percent of earnings allowable under section 504(b).

(e) Section 203(d)(1) now requires a DI to expend or allocate "available proceeds" of long-term foreign borrowing, other than those held in the United States, before it is permitted to make a positive net transfer of capital with funds from other sources. Previously, the same requirement existed but only with respect to "direct investment liquid foreign balances" and not with respect to nonliquid foreign balances or other forms of securities issued by foreign nationals. The section has been amended to exempt DIs who elect the $1,000,000 minimum allowable under section 503 from the restrictions of section 203(d)(1). This exemption is allowed since DIs electing section 503 cannot carry forward any unused allowable to succeeding years which might arise from the application of section 203(d)(1).

(f) The certification procedure in former section 203(d)(2) is repealed. As discussed in section 4 of this notice, a specific exemption procedure is substituted for the certification procedure. Applications must be filed on or before December 1 to be assured of consideration.

(g) Former section 203(d)(3) has been renumbered section 203(d)(2). This section sets forth the rules by which a DI may change during subsequent calendar years the scheduled area in which a deduction is made for proceeds of long-term foreign borrowing originally expended in transfers of capital to AFNs. It is no longer required that available proceeds be expended "because of" section 203(d)(1) in order that a change may be made of the scheduled area in which a deduction is made.

(h) A new section 203(d)(3) has been added which is analogous to revised section 203(d)(2) referred to in paragraph (g) above. Section 203(d)(3) permits a change during subsequent calendar years of the scheduled area in which a deduction for allocated proceeds of long-term foreign borrowing has been made. Such change of scheduled area is made by reallocating the proceeds to a different scheduled area. Previously, that subparagraph provided for a change in the scheduled area in which a deduction could be taken only for proceeds initially expended in making transfers of capital and only one change in scheduled area was permitted.

(i) Section 203(e)(1) has been amended to permit an exemption from the section 203(c) end-of-month limitation on liquid foreign balances if the DI holds $25,000 or less in "liquid foreign balances". Previously, the exemption applied to "foreign balances", whether liquid or non-liquid, and included "direct investment liquid foreign balances". A technical amendment has been made to section 203(e)(2) to conform to the repeal of section 203(a)(3) and to substitute "available proceeds" held abroad for "direct investment liquid foreign balances".

(j) New section 306(e) is added to permit deductions from positive direct investment at the end of any year for proceeds of long-term foreign borrowing allocated to such positive direct investment. This provision permits "allocation" even though the positive direct investment may consist entirely of reinvested earnings. "Allocated" proceeds must, however, now be repatriated to, and held in, the United States prior to the end of the year before a DI can claim a deduction under section 306(e) for that year.

(k) Section 312(a)(7), which deals with complete or partial repayment of borrowings, and section 312(a)(9), which covers certain pledges, etc., have been amended to conform to new sections 306(e) and 203 (a) and (d), and to delete obsolete material.

(l) Section 313(d)(1), which previously covered deductions for proceeds of long-term foreign borrowing either expended or allocated, is amended to apply to expenditures only. As previously noted, new section 306(e) covers deductions for allocations.

(m) Section 324(c), which defines "proceeds of long-term foreign borrowing", has been clarified, and the provision therein which added to "available proceeds" amounts repaid by AFNs to the DI, or amounts distributed on liquidation of an AFN to a DI, has been deleted. Since available proceeds which are expended in making transfers to AFNs may now be freely reallocated to other scheduled areas, the provision for increasing available proceeds by the amount of AFN repayments or liquidation is no longer necessary.

(n) Section 324(d) has been amended to clarify the definition of "available proceeds". These are proceeds of long-term foreign borrowing, wherever held, which have not yet been allocated to positive direct investment or expended in making transfers of capital to AFNs.

(o) Section 1105(c), which related to the application of section 203(d) to Canadian foreign balances, has been revoked to conform with the changes made in section 203(a)(3) and (d). No substantive change is involved.

2. *"Available proceeds" of long-term foreign borrowing.* The term "proceeds of long-term foreign borrowing" is defined in section 324(c) to mean the gross amount or value received (before deducting discounts, commissions or fees) less repayment of principal of such borrowing. Further, such proceeds must be reported to the Office on the DI's quarterly and annual reports in order to qualify as "proceeds of long-term foreign borrowing" for purposes of the regulations. The term "available proceeds" of long-term foreign borrowing is defined in section 324(d) as such proceeds as remain after subtracting (1) amounts expended in making transfers of capital to AFNs and (2) amounts allocated to positive direct investment (and deducted under sections 313(d)(1) and 306(e), respectively). For purposes of calculating the amount of "available proceeds", it is immaterial whether the proceeds are actually held abroad or in the United States.

The following examples are illustrative:

Example 1. On March 1, 1969, an international finance subsidiary of a U.S. corporation (DI) sells in a public offering in Europe 12-year, $20,000,000 face amount convertible debentures at an aggregate discount of $500,000 and pays $500,000 in underwriting fees. DI thus receives $19,000,000 net as a result of the borrowing. However, for purposes of section 324(c), the proceeds of the borrowing are nevertheless $20,000,000 and DI has $20,000,000 in "available proceeds", including the $1,000,000 representing discount and fees. DI may allocate a full $20,000,000 to positive direct investment under section 306(e) even though only the $19,000,000 received is repatriated before the end of the year; or DI may transfer $1,000,000 abroad and hold a full $20,000,000 free of section 203(c) until expended in making transfers of capital deductible under section 313(d)(1). In both cases DI's books and records must indicate the use and employment of the proceeds, as provided in section 203(b).

Example 2. Same facts as Example 1. On April 1, 1969, DI loaned $15,000,000 of such proceeds to its Belgian subsidiary (X), and invested the remaining $4,000,000 of the actual borrowing in short-term certificates of deposit in the London branch of a U.S. bank. There are no other relevant transactions during 1969, and accordingly DI has "available proceeds" of $5,000,000 as of the end of 1969. On March 1, 1970, X makes a repayment of $1,000,000 to DI. As of such date, DI still has "available proceeds" of only $5,000,000. The repayment of $1,000,000 to DI from X does not increase "available proceeds" but constitutes a transfer of capital from Schedule C to DI under section 312(b). If the monies repaid are thereafter transferred to AFNs, section 312(a) will apply to such transfers.

Example 3. Same facts as Example 2 except that $2,000,000 face amount of debentures were converted during 1969. Assuming that the remaining facts in Example 2 are unchanged, DI has made a transfer of capital to X of $2,000,000 (which, if authorized by Subpart J, would reduce DI's allowable in Schedule C by $2,000,000 in 1970). In addition, the "available proceeds" are reduced by $2,000,000 in 1969 because of the repayment of principal (represented by the conversion). Accordingly, DI has "available proceeds" of $3,000,000 as of the end of 1969 instead of $5,000,000.

Example 4. On February 1, 1969, DI borrowed $1,000,000 from a foreign bank which qualified as long-term foreign borrowing under § 324 and expended the proceeds in making a transfer of capital in the form of a loan to its U.K. subsidiary (X). In its final report for the year 1969, DI would show no direct investment made since the transfer of proceeds of long-term foreign borrowing is disregarded under section 313(d)(1). On March 1, 1970, X repays $250,000 to DI and on June 30, 1970, DI repays $500,000 in principal amount to the foreign bank. There are no other relevant transactions during this time. Assuming DI is required to file quarterly reports in 1970, it would report a negative net transfer of capital of $250,000 under section 312(b) at the end of the first quarter. The repayment by X to DI would constitute an increase in "available proceeds". At the end of the second quarter, after DI has repaid $500,000 of its borrowing, DI would report a positive net transfer of capital to X of $250,000 for the half year.

Note also that DI has, as of June 30, only $500,000 of "proceeds of long-term foreign borrowing", all of which are expended in X. Note also that "available proceeds" cannot be less than zero and cannot exceed "proceeds of long-term foreign borrowing" (i.e., such borrowing as is outstanding at a given point in time).

3. *Allocation to positive direct investment under section 306(e).* New section 306(e) has been added to give additional flexibility to DI's in using proceeds of long-term foreign borrowing to reduce positive direct investment to the level authorized by Subparts E and M. During 1968, to the extent positive direct investment was attributable to reinvested earnings, it could only be reduced by payment of dividends by AFN's or by a negative net transfer of capital. The regulations did not permit the allocation of the proceeds of long-term foreign borrowing as an offset to reinvested earnings. This is now expressly permitted by section 306(e), provided that "available proceeds" equal to the amount allocated on the DI's books and records are repatriated to and are held in the United States prior to the end of the year for which the deduction under section 306(e) is claimed. Furthermore, after an allocation has been made (and proceeds have therefore been repatriated), a DI is prohibited from thereafter holding those proceeds in the form of foreign balances or other foreign property, except that they may be expended in making a transfer of capital to an AFN. However, if so expended, the DI will be charged with a transfer of capital under section 312 (a) to the AFN. The repayment of the long-term foreign borrowing involved in the allocation will constitute a transfer of capital under section 312(a)(7) to the scheduled area with respect to which the allocation under section 306(e) was made.

The following examples are illustrative of sections 306(e) and 313(d)(1):

Example 5. DI elects the $1,000,000 minimum allowable under section 503 for 1969. During 1969, DI makes no net transfer of capital to its incorporated AFN (X), and X has earnings of $1,500,000 and pays no dividends. During 1969, DI makes a long-term foreign borrowing of $1,000,000 and reports such proceeds on its next quarterly report. Prior to December 31, DI repatriates $500,000 to the United States as provided in section 306(e)(1)(iii), and uses such amount for domestic working capital purposes. DI holds $500,000 of "available proceeds" in short-term balances abroad as permitted under the proviso to section 203(a)(1) and section 203(c). No other relevant transactions occur in 1969. DI thereafter enters the "allocation" on its books and records as required in section 306(e)(1) and deducts $500,000 from positive direct investment (calculated as provided in section 306(a)(3)) on its FDI-102F for 1969 as required in section 306(e)(1)

(ii). Accordingly, DI has made positive direct investment, for purposes of section 503, of $1,000,000 in 1969 and carries forward $500,000 in available proceeds for use in subsequent years.

Example 6. Same facts as Example 5, except DI elects to be governed by section 504 in 1970. During 1970, DI expends the $500,000 of "available proceeds" carried over from 1969 by a transfer of capital to X, and expends the $500,000 previously allocated and repatriated to the United States in 1969 plus an additional $600,000 by a transfer of capital to a newly-formed AFN (Y) in a different scheduled area. There are no other relevant transactions. DI has made total transfers of capital under section 312(a) during 1970 of $1,600,000 and, before applying the deduction provisions of section 313(d)(1), it has a positive net transfer of capital and positive direct investment in the same amount. However, DI may deduct under section 313(d)(1) the amount of available proceeds transferred to X ($500,000) in computing its net transfer of capital in 1970. The transfer to Y of previously allocated funds will be charged against DI's allowable for 1970 as provided in section 306(e). Note that upon repayment of the long-term foreign borrowing, a section 312(a) transfer of capital will occur in the amount of the repayment, all of which will be charged against DI's allowable in the scheduled area where X is located since the full amount of the proceeds were expended or allocated in that scheduled area; i.e., $500,000 representing the deferred charge for the deduction provided for expenditure of proceeds under section 313(d)(1) and $500,000 representing the deferred charge provided for allocations of proceeds under section 306(e). The transfer of the $500,000 allocated proceeds to a different scheduled area does not change the scheduled area to which a repayment of the borrowing is charged under section 312(a)(7).

4. *Use of "available proceeds" required by § 203(d)(1).* Section 203(d)(1) no longer applies to DIs electing the minimum allowable of § 503. Section 203(d)(1) requires, however, that DIs electing either the historical or earnings allowables of section 504 make use of any "available proceeds" which were not then held in the United States before making a positive net transfer of capital to a scheduled area for the year to the extent that the positive net transfer of capital results in positive direct investment in that scheduled area. For the purpose of complying with section 203(d)(1), affected "available proceeds" may be used to make actual transfers of capital to AFNs which are deducted under section 313(d)(1) or they may be allocated to positive direct investment and deducted under new section 306(e). Under revised section 203(d)(1), the fact that "available proceeds" may be held in "nonliquid" form abroad is no longer relevant. However, if they are held in the United States, and not in the form of foreign balances or securities, they are not subject to section 203(d)(1).

Section 203(d)(1) provides that any allocation to positive direct investment pursuant to section 306(e), even though made to bring the DI into compliance with its schedular allowables as well as for section 203(d)(1) purposes, shall first be deemed to reduce the positive net transfer of capital component of positive direct investment. Accordingly, any allocations under section 306(e) will serve the double purpose of satisfying section 203(d)(1) at the same time as they reduce positive direct investment for purposes of section 504. Note also that allocations may be made under section 306(e) to positive direct investment arising under sections 1202(b) and 1203(b) of proposed Subpart L.

Since to be exempt from section 203(d)(1) available proceeds must be held in the United States, and since the allocation of available proceeds under section 306(e) requires that proceeds so allocated be repatriated to, and held in, the United States, compliance with section 203(d)(1) may in certain instances be impossible or create substantial hardship. Section 203(d)(2) formerly provided relief from the provisions of section 203(d)(1) if a DI certified within 45 days after the end of the year that expenditure in transfers of capital of available proceeds held in the form of "direct investment liquid foreign balances" was not possible prior to the end of the year, or that repatriation "would have contravened express representations made by the direct investor to, or restrictions imposed on the direct investor by, persons from whom the relevant long-term foreign borrowings were obtained (as conditions to obtaining such borrowings) or would have created a substantial probability of material adverse United States or foreign tax consequences to the direct investor." These same grounds for relief from section 203(d)(1) will continue to apply, but relief will be granted in 1969 in the form of specific exemptions rather than by certification. Applications for such relief, however, must be filed on or before December 1 of the year for which exemption is sought in order to assure consideration by the Office. DIs should refer in this connection to the Revised Instructions for Submitting Applications for Specific Authorization or Exemptions or for Interpretive Opinions, dated June 6, 1969, issued by the Office.

As previously provided in the certification procedure, an application for specific exemption may be filed where there is a substantial probability of adverse tax consequences if the proceeds are allocated and repatriated. The Office recognizes that in certain instances DIs, particularly their international finance subsidiaries (frequently referred to as "80/20" or "section 861" corporations), may be concerned that any allocation of proceeds of long-term foreign borrowing as a result of section 203(d)(1) may jeopardize the exemption from United States withholding taxes on interest payable to foreign creditors. This would be particularly true if, as a result of holding allocated proceeds in the United States, more than 20 percent of the income of the international finance subsidiary was deemed to be from domestic sources. This problem may now be more acute since the change in section 203(d)(1) to apply to "available proceeds" unless held in the United States, and the requirement in section 306(e) that allocated proceeds be held in the United States, will no longer permit allocated proceeds to be held in Canada in liquid or nonliquid balances. It is anticipated, therefore, that more specific exemptions may have to be issued than would otherwise have been the case under former section 203(d)(1). In this respect, however, the Office wishes to direct the attention of DIs to Internal Revenue Service Technical Information Release No. 1005, issued December 27, 1968, in which there is discussion of several options available under section 861(a) of the Internal Revenue Code which are consistent with the objectives and requirements of the Foreign Direct Investment Program and will not adversely affect the international finance subsidiary's section 861 "foreign source income" position.

The following example is illustrative of section 203(d)(1):

Example 7. DI elects the 30 percent of earnings allowable under section 504(b) for 1969 and has a Schedule B allowable of $2,000,000. During 1969, DI makes a positive net transfer of capital to Schedule B of $2,500,000 and its Schedule B AFNs earn $1,000,000. In addition, DI holds $5,000,000 in "available proceeds" in the form of short-term deposits in a German bank. Assuming DI's Schedule B AFNs pay no dividends for 1969, DI may repatriate prior to the end of the year $1,500,000 of the "available proceeds" and allocate and deduct such amount pursuant to section 306(e), thereby reducing its positive direct investment in Schedule B to $2,000,000 ($2,500,000 plus $1,000,000 less $1,500,000) in compliance with its allowables under section 504(b). However, since DI would still hold overseas "available proceeds", and its net transfers of capital to Schedule B, after taking into account the proviso to section 203(d)(1), would be $1,000,000 ($2,500,000 less $1,500,000), DI is required to repatriate before the end of the year at least an additional $1,000,000 to comply with section 203(d)(1). If this repatriated amount is allocated to positive direct investment under section 306(e), DI will report positive direct investment in Schedule B during 1969 on its FDI-102F of $1,000,000 (deemed to consist of a zero net transfer of capital plus reinvested earnings of $1,000,000 under the proviso to section 203(d)(1)) and would have a Schedule B carry-forward into 1970 of $1,000,000 for its unused allowables in that amount. In the alternative DI may repatriate all remaining overseas "available proceeds" of $3,500,000 so that section 203(d)(1) does not apply, and it need not then allocate any portion of them to positive direct investment. DI would then show positive direct investment in Schedule C of $2,000,000, it would have no carry-forward and it would have $3,500,000 of domestic "available proceeds" for use in succeeding years.

5. *Change of scheduled area in which deductions are made.* Section 203(d)(3) as in effect during 1968 permitted proceeds of long-term foreign borrowing expended in a scheduled area in transfers of capital to be "reallocated" to another scheduled area, but only if such transfers were made because of the provisions of section 203(d)(1). Further, only one such "reallocation" could be made. Under new section 203(d)(2), a direct investor which expends proceeds of long-term foreign borrowing and makes a deduction from net transfer of capital to a scheduled area under section 313(d)(1), may thereafter make unlimited successive deductions, in successive years, from positive direct investment in other scheduled areas.

Also, under new section 203(d)(3), a direct investor which allocates proceeds of long-term foreign borrowing and deducts the amount of such proceeds from positive direct investment in a scheduled area under section 306(e), may thereafter make unlimited successive allocations and deductions, in successive years, from positive direct investment in other scheduled areas. Both subparagraphs (2) and (3) of section 203(d) permit a change in the scheduled area to which an allocation is made whether or not the first expenditure or allocation was made because of the provisions of section 203(d)(1). In each case, however, during the year in which a change of scheduled area occurs, a transfer of capital in an equal amount is recognized to the scheduled area in which the last prior expenditure or allocation was made. No further "reallocation" may take place after the borrowing has been repaid, since allocated proceeds are, by definition, only those proceeds which are of outstanding borrowings. "Reallocation" may, however, in all events be made up to the amount of proceeds expended in transfers of capital until the long-term foreign borrowing with respect to those proceeds is repaid.

The following example is illustrative of section 203(d) (2) and and (3):

Example 8. DI elects the historical allowable for 1969 and has a Schedule B allowable of $2,000,000. During 1969, DI makes a long-term foreign borrowing, the proceeds of which are $5,000,000, and accordingly holds available proceeds of $5,000,000. During 1969, DI expends $3,000,000 of its available proceeds in a transfer of capital to X, its sole Schedule B AFN, for which a deduction is taken under section 313(d)(1), and X has earnings of $4,000,000 and pays no dividends, resulting in positive direct investment in Schedule B during 1969 of $4,000,000. Prior to the end of 1969, however, X repatriates and allocates its remaining $2,000,000 of available proceeds to positive direct investment in X and deducts such amount under section 306(e) to arrive at $2,000,000 of positive direct investment in 1969 authorized by its Schedule B allowable.

During 1970, DI again elects the historical allowable of $2,000,000 in Schedule B. DI acquires a Schedule C AFN (Y), with $4,000,000 of funds from U.S. sources. DI has no allowable and no other AFNs in Schedule C and makes no other transactions in Schedule C. The acquisition is a transfer of capital which results in positive direct investment in Schedule C during 1970 of $4,000,000. During 1970, DI deducts from Schedule C positive direct investment, under section 203(d)(2), $3,000,000 which was expended in making the transfer of capital to Schedule B during 1969. DI also allocates $1,000,000, under section 203(d)(3), which was previously allocated to positive direct investment in Schedule B during 1969, and therefore deducts a total of $4,000,000 from positive direct investment in Schedule C during 1970 in order to comply with the program in that scheduled area. This change in the scheduled area in which allocation and deduction is made results in transfers of capital to X in Schedule B during 1970 of $4,000,000 ($3,000,000 plus $1,000,000). During 1970, X has earnings of $4,500,000 and pays dividends in same amount to DI, and X also makes a transfer of capital to DI of $2,000,000, so that DI has positive direct investment in Schedule B for 1970 of $2,000,000 as authorized under its § 504 allowable for that scheduled area.

6. *Miscellaneous.* Section 203(e)(1) has been amended to revise the $25,000 exemption to apply only to "liquid foreign balances" held as of the end of any month, commencing July 1, 1969. Previously, this exemption applied to "foreign balances", which included nonliquid foreign balances and "direct investment liquid foreign balances". DIs which elect the section 503 minimum allowable, in particular, should note that the increase of the section 503 minimum allowable to $1,000,000 does not affect the ceiling provided in section 203(c) which continues to be based on the average end-of-month amounts of "liquid foreign balances" held by the DI during 1965 and 1966, subject only to the $25,000 exemption. All DIs should be aware that it is the intent of the regulations that the volume of "liquid foreign balances" should not vary significantly over the course of a month, except for legitimate business reasons. In addition, DIs are also reminded that section 203(a)(4) provides that certain liquid foreign balances nominally held by AFNs of a DI will be considered held by the DI itself. For example, intercompany loans to a subsidiary which result in liquid foreign balances not related to the business needs of the subsidiary are both transfers of capital under section 312(a) and "liquid foreign balances" subject to the ceilings established in section 203(c).

Interested persons are invited to submit written comments, suggestions, or objections concerning the proposed amendments to the Chief Counsel, Legal Division, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230. Because of the necessity of distributing the quarterly reporting form (FDI-102) for 1969 as soon as possible, and since the proposed amendments primarily consist of additional measures designed to give additional flexibility to DIs and technical amendments which do not involve changes of substance, such communications concerning the proposed amendments will be considered only if received within 10 days after publication of this notice in the FEDERAL REGISTER. Subsequent to such time, the proposed amendments, if adopted, will be published in the FEDERAL REGISTER in final form either as proposed or as they may be changed in light of comments received.

The text of the amendments, effective with respect to transactions after January 1, 1969, unless otherwise specifically provided, is as follows:

1. Subparagraph (3) of paragraph (a) of § 1000.203 is revoked, and paragraphs (a)(1), (b), (c), (d), and (e) of that section are revised to read as follows:

§ 1000.203 Liquid foreign balances; prohibited positive net transfer of capital.

(a) For purposes of this section:

(1) The term "foreign balances" means money on deposit in a foreign bank (as defined in § 1000.317), including certificates of deposit and fixed interest deposits of such a bank, negotiable instruments, nonnegotiable instruments acquired after June 30, 1968, commercial paper of an unaffiliated foreign national (other than negotiable instruments, nonnegotiable instruments or commercial paper arising from the export by the direct investor of goods or services from the United States to foreign nationals) and securities issued or guaranteed by a foreign country: *Provided*, That foreign balances shall not, except as otherwise expressly provided in this part, include available proceeds as defined in paragraph (d) of § 1000.324.

* * * * *

(b) Each direct investor shall maintain books and records which identify separately all proceeds of long-term foreign borrowing which it receives and the uses to which such proceeds have been put.

(c) Except as provided in paragraph (e)(1) of this section and as otherwise provided by the Secretary by means of authorizations, exemptions or otherwise, each direct investor is hereby required, on or before June 30, 1968, to reduce the amount of liquid foreign balances held by such direct investor to an amount not in excess of the average end-of-month amounts of the same so held by such direct investor (whether or not a direct investor at that time) during 1965 and 1966; and, thereafter, to limit the amount of such balances held by the direct investor at the end of any month to such reduced amount.

(d)(1) Except as provided in paragraph (e)(2) of this section, and as otherwise permitted by the Secretary by means of authorizations, exemptions or otherwise, a direct investor which holds available proceeds in the form of foreign balances or securities as of the end of any year commencing with the year 1969 shall be prohibited from making a positive net transfer of capital to any scheduled area for such year to the extent of any positive direct investment in such scheduled area for such year: *Provided*, That this subparagraph shall not apply to a direct investor which elects to be governed by § 1000.503 for such year. For purposes of this paragraph, allocations to positive direct investment under § 1000.306(e) shall first be deemed to reduce any positive net transfer of capital to a scheduled area and thereafter to reduce any reinvested earnings in such scheduled area.

(2) A direct investor which expends proceeds of long-term foreign borrowing and makes a deduction from net transfer of capital to a scheduled area under § 1000.313(d)(1), may thereafter deduct the same amount or any portion thereof from positive direct investment in another scheduled area, up to the amount of such proceeds of long-term foreign borrowing, and such proceeds shall be deemed expended in such other scheduled area: *Provided*, That the direct investor shall be deemed at the time of such deduction from positive direct investment in a different scheduled area to have made a transfer of capital equal to the amount of such deduction to the scheduled area in which the deduction from net transfer of capital under § 1000.313(d)(1) was previously made.

The direct investor may thereafter continue to change the scheduled area in which a deduction from positive direct investment is made, up to the amount of proceeds of long-term foreign borrowing expended in making a transfer of capital: *Provided*, That each time such change occurs, the direct investor shall be deemed to have made a transfer of capital to the immediately previous scheduled area in the amount of the deduction from positive direct investment in the subsequent scheduled area.

(3) A direct investor which allocates proceeds of long-term foreign borrowing and deducts the amount of said proceeds from positive direct investment in a scheduled area under § 1000.306(e), may thereafter allocate all or part of such proceeds of long-term foreign borrowing to positive direct investment in another scheduled area: *Provided*, That a direct investor which makes a reallocation under this subparagraph (3) shall be deemed at the time of such reallocation to have made a transfer of capital equal to the amount so reallocated to the scheduled area in which the proceeds of long-term foreign borrowing were allocated immediately prior thereto. The direct investor may thereafter continue to reallocate all or part of such proceeds to different scheduled areas: *Provided*, That each time such reallocation occurs, the direct investor shall be deemed to have made a transfer of capital equal to the amount so reallocated to the scheduled area to which the proceeds of long-term foreign borrowing were allocated immediately prior to such reallocation.

(e)(1) Commencing with July 1, 1969, a direct investor which, as of the end of any month, has total liquid foreign balances not exceeding $25,000, shall not be subject to the provisions of paragraph (c) of this section with respect to such month.

(2) Paragraph (d)(1) of this section shall not apply with respect to a year if a direct investor, as of the end of such year, holds total available proceeds in the form of foreign balances or securities in the amount of no more than $25,000.

2. A new paragraph (e) is added to § 1000.306 to read as follows:

§ 1000.306 Positive and negative direct investment.

* * * * *

(e)(1) There shall be deducted from positive direct investment in a scheduled area during any year, as calculated under paragraph (a) of this section, an amount equal to any available proceeds (as defined in § 1000.324(c)) allocated by the direct investor to such positive direct investment for such year. Available proceeds shall be allocated to such positive direct investment for such year if (i) an entry is made in the books and records maintained by the direct investor under §§ 1000.203(b) and 1000.601; (ii) the allocation and deduction is reported on the next annual report of the direct investor (Form FDI–102F) filed for the year for which the deduction is made; and (iii) the proceeds, as of the end of the year for which the deduction is made, are held in the United States and are not held, directly or indirectly, in the form of foreign balances or property, or in the form of securities (including debt obligations, equity interests and any other type of investment contract) of persons other than persons within the United States.

(2) A direct investor which allocates available proceeds as provided in subparagraph (1) of this paragraph is prohibited from thereafter holding such proceeds in any form other than as provided in subdivision (iii) of that subparagraph: *Provided*, That such proceeds may thereafter be expended in making transfers of capital to affiliated foreign nationals, but if so expended, § 1000.313 (d)(1) shall not apply.

3. Section 1000.312(a)(7) is revised to read as follows:

§ 1000.312 Transfers of capital.

(a) * * *

(7) The complete or partial satisfaction by a direct investor of a long-term foreign borrowing made by the direct investor before or after the effective date of the regulations to the extent the proceeds of the borrowing were expended in making transfers of capital on or after January 1, 1965, or were allocated by the direct investor (on the books and records maintained by the direct investor under §§ 1000.203(b) and 1000.601) to positive direct investment.

A transfer of capital resulting from the repayment of a borrowing by a direct investor shall be deemed to have been made to the scheduled area for which a deduction was last made under §§ 1000.203(d)(2), 1000.203(d)(3), 1000.306(e), or 1000.313(d)(1); or if a deduction was last made in two or more scheduled areas with respect to such repaid borrowing, the transfer shall be apportioned among such scheduled areas in the same proportions as the amount of such deductions in each such scheduled area. If any apportionment made by a direct investor hereunder is determined by the Secretary to be inconsistent with the purposes of this part, the Secretary shall have the right, in his discretion, to make an apportionment consistent with the purposes of this part.

* * * * *

4. Section 1000.312(a)(9) is amended to add after the words "as defined in § 1000.203(a)(1)" in the first sentence of said subparagraph, the words "and including available proceeds held as foreign balances".

5. Paragraph (d)(1) of § 1000.313 is revised to read as follows:

§ 1000.313 Net transfer of capital.

* * * * *

(d) In calculating the amount of the net transfer of capital made by a direct investor to a schedule area during any period (including the years 1965 and 1966) pursuant to paragraph (c) of this section:

(1) There shall be deducted an amount equal to the proceeds of long-term foreign borrowing actually expended in making transfers of capital to affiliated foreign nationals in such scheduled area during such period.

* * * * *

6. Paragraphs (c) and (d) of § 1000.324 are revised to read as follows:

§ 1000.324 Long-term foreign borrowing.

* * * * *

(c) "Proceeds of long-term foreign borrowing" means (1) the gross amount or value (before deducting any discounts, commissions or fees) of funds or other property received by a direct investor from the first purchaser or holder in exchange for the debt obligation issued or created in connection with the borrowing, and reported by the direct investor on its next and all succeeding periodic reports filed with the Office (whether quarterly on Form FDI–102 or annual on Form FDI–102F) for periods during which such borrowing is outstanding, less (2) repayments of principal on such borrowing.

(d) "Available proceeds" means proceeds of long-term foreign borrowing (as defined in paragraph (c) of this section) less (1) amounts which have been expended in transfers of capital to affiliated foreign nationals and deducted under § 1000.313(d) (1), and (2) amounts allocated to positive direct investment made in a scheduled area and deducted under § 1000.306(e).

§ 1000.1105 [Amended]

7. Section 1000.1105 is amended to revoke paragraph (c) of that section.

8. The amendments hereby adopted shall be effective as of the date of publication in final form in the FEDERAL REGISTER and shall apply to all direct investment and affected transactions occurring during the year 1969 and succeeding years.

RICHARD P. URFER,
Director, Office of Foreign Direct Investments.

JUNE 16, 1969.

[F.R. Doc. 69–7239; Filed, June 16, 1969; 10:40 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69–CE–36]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Hibbing, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director,

Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. 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 amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Hibbing, Minn., one of the instrument approach procedures for Chisholm-Hibbing Airport has been modified. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Hibbing, Minn., control zone and transition area to adequately protect aircraft executing the modified approach procedure and to comply with the new control zone and transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (34 F.R. 4557), the following control zone is amended to read:

HIBBING, MINN.

Within a 5-mile radius of Chisholm-Hibbing Airport (latitude 47°23'20" N., longitude 92°50'25" W.); within 1½ miles each side of the Hibbing VOR 313° radial, extending from the 5-mile radius zone to the VOR; within 2½ miles each side of the Hibbing VOR 313° radial, extending from the 5-mile radius zone northwest to 19 miles northwest of the VOR; and within 2½ miles each side of the 210° bearing from Chisholm-Hibbing Airport extending from the 5-mile radius zone to 6½ miles southwest of the airport.

(2) In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

HIBBING, MINN.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Chisholm-Hibbing Airport (latitude 47°23'20" N., longitude 92°50'25" W.); within 2½ miles each side of the Hibbing VOR 313° radial, extending from 19 to 20½ miles northwest of the VOR; and within 3 miles each side of the 070° bearing from Chisholm-Hibbing Airport, extending from the 8½-mile radius area to 13½ miles east of the airport, excluding the portion which overlies the Eveleth, Minn., transition area; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the Hibbing VOR 133° radial, extending from the VOR to 18½ miles southeast of the VOR; within 4½ miles northeast and 9½ miles southwest of the Hibbing VOR 313° radial, extending from 9 to 31½ miles northwest of the VOR; within 4½ miles south and 9½ miles north of the 070° bearing from Chisholm-Hibbing Airport, extending from the airport to 24 miles east of the airport; and within 4½ miles northwest and 9½ miles southeast of the 210° bearing from Chisholm-Hibbing Airport, extending from the airport to 18½ miles southwest of the airport, excluding the portion which overlies the Duluth, Minn., transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 21, 1969.

BROWNING ADAMS,
Acting Director, Central Region.

[F.R. Doc. 69-7169; Filed, June 17, 1969; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-CE-37]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Vichy, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. 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. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace in the Vichy, Mo., terminal area, a new public use instrument approach procedure has been developed for the Rolla National Airport utilizing the Vichy VORTAC as a navigational aid. In addition, the criteria for the designation of transition areas have been changed. Accordingly, it is necessary to alter the Vichy, Mo., transition area to adequately protect aircraft executing the new approach procedure and to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

VICHY, MO.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Rolla National Airport (latitude 38°07'40" N., longitude 91°46'10" W.); and within 3 miles each side of the Vichy, Mo., VORTAC 067° radial, extending from the 6½-mile radius area to 8 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southeast and 9½ miles northwest of the Vichy VORTAC 067° and 247° radials, extending from 4 miles southwest to 18½ miles northeast of the VORTAC; within 8 miles southeast and 6½ miles northwest of the Vichy VORTAC 059° and 239° radials, extending from 7 miles northeast to 24 miles southwest of the VORTAC; and within the arc of a 22½-mile radius circle centered on the Vichy VORTAC, extending from the Vichy VORTAC 239° radial clockwise to the Vichy VORTAC 321° radial.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 27, 1969.

BROWNING ADAMS,
Acting Director, Central Region.

[F.R. Doc. 69-7170; Filed, June 17, 1969; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-CE-34]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Pipestone, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. 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. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in

order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure has been developed for the Pipestone, Minn., Municipal Airport, utilizing a State-owned radio beacon located on the airport as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Pipestone, Minn. The new procedure will become effective concurrently with the designation of the transition area. The Minneapolis Air Route Traffic Control Center will control IFR air traffic into and out of the Pipestone Municipal Airport.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (34 F.R. 4637), the following transition area is added:

PIPESTONE, MINN.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pipestone Municipal Airport (latitude 43°-59'05" N., longitude 96°18'00" W.); and within 3 miles each side of the 193° bearing from Pipestone Municipal Airport, extending from the 5-mile radius area to 8 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 013° and 193° bearings from Pipestone Municipal Airport, extending from 5 miles north to 18½ miles south of the airport; and within 5 miles each side of the 013° bearing from Pipestone Municipal Airport, extending from the airport to 12 miles north of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 21, 1969.

BROWNING ADAMS,
Acting Director, Central Region.

[F.R. Doc. 69-7171; Filed, June 17, 1969; 8:47 a.m.]

[14 CFR Parts 71, 75]

[Docket No. 9657; Notice 69-27]

DESIGNATION OF AREA NAVIGATION ROUTES

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Parts 71 and 75 of the Federal Aviation Regulations to establish repositories for the designation of area navigation routes and to define the spatial limitations of these routes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before August 18, 1969, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Present navigational methods, based on the use of VOR/DME/TACAN ground facilities, result in routes or airways which lead either directly toward or away from the station. Such restrictions on alignments create a convergence or funneling of air traffic over the station and result in limitations on the configuration and the number of routes available between two points.

These limitations take on even more importance when one considers that arrival and departure procedures are based in large measure on the same ground stations which serve the en route structure. This means the funneling effect is compounded by altitude changes for traffic transiting to or from the en route structure.

The next logical step towards providing more airspace and reducing traffic congestion is the development of a navigational capability that permits accurate route definition on an area basis to take full advantage of the VORTAC system. This capability, commonly termed "area navigation", is described as navigation not confined to flying a radial to or from the ground station providing the navigational guidance. Area navigation, from one geographical point to another, can either be dependent upon ground based facilities or self-contained navigational aids.

Several airborne navigation systems have been developed. Among these are: (1) Course line computers; (2) pictorial displays; (3) doppler radars; and (4) inertial platforms.

The course line computer is an airborne computer which indicates a predetermined course to fly, on the basis of inputs from ground based signals. Pictorial display links the course line computer to a moving symbol seen against the background of an area chart, so that the geographical position of the aircraft is indicated at all times. Inertial platforms provide the pilot with exact ground speed and azimuth data, making possible accurate cockpit computation of position.

Area navigational devices permit additional flexibility over VOR/DME receivers being used in the conventional VOR airway and approach environment. These devices provide an airborne computer which utilizes bearing and distance information and computes the necessary information to permit navigation to any selected waypoint or geographical coordinates (also known as a waypoint) within the service volume of a predetermined ground station, providing facility performance is satisfactory. The airborne equipment, in effect, offsets a ground station to any selected point within the service volume of the reference facility, thus creating a waypoint. Other area navigation devices, such as Inertial Navigational Systems, use latitude and longitude coordinates to define a geographic waypoint. A succession of these waypoints provide definition of the designated course to be flown. Thus, any route or terminal area procedure may be devised by providing a proper succession of waypoints.

By amending the Federal Aviation Regulations, the FAA can provide the necessary protected airspace for the utilization of area navigation equipment. This proposed regulatory action is not to designate specific routes but rather to (1) propose spatial requirements for area high and low routes and (2) to create a repository where later airspace rule making actions can be placed.

By developing concepts of area navigation within the present air traffic system, we can enhance controller and pilot ability to cope with the ever increasing traffic volume through better use of the available airspace.

In consideration of the foregoing, it is proposed to amend Parts 71 and 75 of the Federal Aviation Regulations as follows:

1. By amending Part 71 as follows:

a. By amending the Title of Part 71 to read as follows:

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

b. By adding a new § 71.1(c) to read as follows:

§ 71.1 Applicability.

* * * * *

(c) The airspace assignments described in Subpart J are designated as area low routes.

c. By adding a new § 71.6 to read as follows:

§ 71.6 Extent of area low routes.

(a) Each area low route segment consists of airspace on each side of a centerline extending between two or more waypoints. Waypoints are fixes located away from a specified VORTAC/VOR-DME, and are described by the VORTAC/VOR-DME radial and DME distance. The tangent point is the intersection of the area low route segment centerline or centerline extended with the perpendicular radial of the VORTAC/VOR-DME used to describe the waypoints. All mileages specified are nautical miles.

(b) Unless otherwise specified in Subpart J—

(1) Each area low route includes the airspace within parallel boundary lines 4 miles each side of the centerline. Where an area low route changes direction, it includes that airspace enclosed by extending the boundary lines of the area low route segments until they meet.

(2) Where the changeover point for an area low route segment is more than 51 miles from either tangent point and—

(i) The changeover point is midway between the tangent points, the route segment includes the airspace between lines diverging at angles of 4.5° from the centerline at each tangent point and extending until they intersect opposite the changeover point; or

(ii) The changeover point is not midway between the tangent points, the route segment includes the airspace between lines diverging at angles of 4.5° from the centerline at the tangent point more distant from the changeover point, and extending until they intersect with the bisector of the angle of the centerlines at the changeover point, and between lines connecting these points of intersection and the tangent point nearer to the changeover point.

(3) Where an area low route terminates at a waypoint more than 51 miles from the tangent point, it includes the additional airspace within lines diverging at angles of 4.5° from the centerline extending from the tangent point to a line perpendicular to the centerline at the termination point.

(4) Where an area low route terminates, it includes the airspace within a circle centered at the terminating waypoint having a diameter equal to the route segment width at that point. However, an area low route does not extend beyond the domestic/oceanic control area boundary.

(c) Unless otherwise specified in Subpart J—

(1) Each area low route includes that airspace extending upward from 1,200 feet above the surface of the earth to, but not including 18,000 feet MSL, except that area low routes for Hawaii have no upper limits. Variations of the lower limits of an area low route are expressed in digits representing hundreds of feet above the surface (AGL) or mean sea level (MSL) and, unless otherwise specified apply to the segment of a route between adjoining waypoints used in the description of the route; and

(2) The airspace of an area low route within the lateral limits of a transition area has a floor coincident with the floor of the transition area.

d. By amending the first sentence of § 71.7 to read as follows:

§ 71.7 Control areas.

Control areas consist of the airspace designated in Subparts B, C, E, and J, but do not include the continental control area.

* * * * *

e. By adding a new Subpart J—Area Low Routes to read as follows:

Subpart J—Area Low Routes

§ 71.221 Designation.

Waypoints used in the descriptions of area low routes designated herein are described by the VORTAC/VOR name, radial and DME distance forming those waypoints. Where waypoint place names are used, the place name will be enclosed in parentheses.

2. By amending Part 75 as follows:

a. By amending the Title of Part 75 to read as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

b. By inserting the following sentence at the end of § 75.1:

§ 75.1 Applicability.

* * * The routes described in Subpart D are designated as area high routes.

c. By adding a new § 75.13 to read as follows:

§ 75.13 Area high routes.

Each area high route designated in Subpart D consists of a direct course for navigating aircraft between 18,000 feet MSL and flight level 450, inclusive, between the waypoints specified for that route. Unless otherwise specified, the airspace centered on each of the following area high routes extending outside the continental control area has a lateral extent identical to that of an area low route and is designated as a control area.

d. By adding a new Subpart D—Area High Routes to read as follows:

Subpart D—Area High Routes

§ 75.401 Area high routes.

Waypoints used in the descriptions of area high routes designated herein are described by the VORTAC/VOR name, radial, and DME distance forming those waypoints. Where waypoint place names are used, the place name will be enclosed in parentheses.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 13, 1969.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[F.R. Doc. 69-7190; Filed, June 17, 1969; 8:48 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 9 (Rev.)]

DEPUTY ADMINISTRATOR AND ASSISTANT ADMINISTRATORS

Delegations of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 of November 3, 1961, as amended, from the Secretary of State (26 F.R. 10608) and in accordance with the provisions of section 624(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2384), it is directed as follows:

In the event of the absence, death, resignation, or disability of the Administrator, the following designated officers of the Agency for International Development shall, in the order of succession indicated, act as Administrator:

(1) Deputy Administrator.

(2) Assistant Administrator, Bureau for Near East and South Asia.

(3) Assistant Administrator for Administration.

(4) Assistant Administrator, Bureau for Vietnam.

(5) Assistant Administrator, Bureau for Africa.

(6) Assistant Administrator, Bureau for East Asia.

This delegation of authority supersedes Delegation of Authority No. 9 (revised) of August 2, 1968 (33 F.R. 11418).

This delegation of authority is effective immediately.

Dated: June 11, 1969.

JOHN A. HANNAH,
Administrator.

[F.R. Doc. 69-7187; Filed, June 17, 1969; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[New Mexico 9508]

NEW MEXICO

Notice of Proposed Withdrawal and Reservation of Land

JUNE 11, 1969.

The Bureau of Reclamation, U.S. Department of the Interior, has filed an application, Serial New Mexico 9508, for the withdrawal of the land described below, from all forms of appropriation under the public land laws, including the general mining, but not the mineral leasing laws. The applicant desires the land for reclamation purposes in connection with the Pecos River Basin Water Salvage Project.

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, Chief, Division of Lands and Minerals Program Management and Land Office, Post Office Box 1449, Santa Fe, N. Mex. 87501.

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 land and its 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 land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land 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 it, a public hearing will be held at a convenient time and place, which will be announced.

The land involved in the application is:

NEW MEXICO PRINCIPAL MERIDIAN

T. 21 S., R. 27 E.,
Sec. 33, W½SE¼NE¼.

The area described aggregates 20 acres in Eddy County.

W. J. EGAN,
Acting Chief, Division of Lands and Minerals, Program Management and Land Office.

[F.R. Doc. 69-7149; Filed, June 17, 1969; 8:45 a.m.]

Office of the Secretary

E. CLYDE McGRAW

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) Change name of Texas Compressor Corp. to Texas Commercial Industries, Inc.

(2) Delete Farmers Cooperative Grain Co. Change name of Texas Compressor Corp. to Texas Commercial Industries, Inc.

(3) None.

(4) None.

This statement is made as of June 9, 1969.

Dated: June 2, 1969.

E. CLYDE MCGRAW.

[F.R. Doc. 69-7206; Filed, June 17, 1969; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

SHELL CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemical

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 a petition (PP 9F0836) has been filed by the Shell Chemical Co., Division of Shell Oil Co., 1700 K Street NW., Washington, D.C. 20006, proposing the establishment of tolerances (21 CFR Part 120) for negligible residues of the herbicide 4 - (methylsulfonyl) -2,6 - dinitro - *N,N*-dipropylaniline in or on forage legumes, peanuts, and seed and pod vegetables at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure with an electron capture detector.

Dated: June 10, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-7173; Filed, June 17, 1969; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 69-60]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR, chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject

to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from May 9, 1969 to May 21, 1969 (list No. 14–69). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard, with respect to these approvals (49 CFR 1.4 (a)(2) and (g)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR, Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

LIFEBOATS FOR MERCHANT VESSELS

Approval No. 160.035/381/3, 24.0' x 8.0' x 3.5' fibrous glass reinforced plastic (F.R.P.), oar-propelled lifeboat, 40-person capacity, identified by general arrangement drawing No. P–24–1A, Revision F, dated February 5, 1969, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"—2,500 pounds; Condition "B"—10,027 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective May 21, 1969. (It supersedes Approval No. 160.035/381/2 dated July 14, 1967, to show change in construction and address of manufacturer.)

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE. Approved for use on motorboats of classes A, 1, or 2, not carrying passengers for hire.

Approval No. 160.048/147/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048–4(c)(1)(i), manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines, Iowa 50317, for Nu-Way Sporting Goods Co., 708 Eighth Street, Sioux City, Iowa 51105, effective May 19, 1969. (It is an extension of approval No. 160.048/147/0 dated May 21, 1964.)

SAFETY VALVES (STEAM HEATING BOILERS)

Approval No. 162.012/24/0, model OVS safety valve for steam heating boilers and unfired steam generators, dwg. No. B–2807–S, dated June 20, 1962, and revised June 4, 1963, approved for a maximum pressure of 30 p.s.i and a maximum temperature of 450° F. in the following sizes and relieving capacities:

Size (inches)	Capacity (pounds/hr.) @ 30 p.s.i.
¾	310
1	554
1¼	866
1½	1242
2	2217

manufactured by J. E. Lonergan Co., Post Office Box 6167, Philadelphia, Pa. 19115, effective May 16, 1969.

PRESSURE VACUUM RELIEF VALVES AND SPILL VALVES FOR TANK VESSELS

Approval No. 162.017/105/0, model 94030 6" Marine Breather Valve, dwg. No. 9403–00010, approved for pressure vacuum relief on cargo oil tanks with a maximum pressure setting of 2.5 p.s.i.g. and a maximum vacuum setting of 0.5 p.s.i.g., manufactured by GPE Controls, Inc., 6511 Oakton Street, Morton Grove, Ill. 60053, effective May 16, 1969.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/16/1, "No. 100 Ultralite MC Insulation," glass wool insulation-type incombustible material identical to that described in National Bureau of Standards Test Report No. TG3610–1519:FP2622 dated May 19, 1948, approved in a 1-pound per cubic foot density, manufactured by Gustin Bacon Division, Certain-Teed Products Corp., at Plant No. 7, 3031 Fiberglas Road, Kansas City, Kans. (formerly Certain-Teed/Saint Gobain), for Certain-Teed/Saint Gobain Insulation Corp., 100 Presidential Boulevard, Bala-Cynwyd, Pa. 19004, effective May 9, 1969. (It supersedes Approval No. 164.009/16/1 dated Oct. 31, 1967 to show change in name of manufacturer.)

Approval No. 164.009/23/0, "No. 75 Ultralite MC Insulation," glass wool insulation-type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–1656:FP2855 (Test No. 122822) dated December 13, 1949, approved in a density of 0.75-pound per cubic foot, manufactured by Gustin Bacon Division, Certain-Teed Products Corp., at Plant No. 7, 3031 Fiberglas Road, Kansas City, Kans. (formerly Certain-Teed/Saint Gobain), for Certain-Teed/Saint Gobain Insulation Corp., 100 Presidential Boulevard, Bala-Cynwyd, Pa. 19004, effective May 9, 1969. (It supersedes Approval No. 164.009/23/0 dated Oct. 31, 1967, to show change in name of manufacturer.)

Approval No. 164.009/24/0, "No. 150 Ultralite MC Insulation," glass wool insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–1656:FP2855 (Test No. 122822) dated December 13, 1949, approved in a density of 1.48 pounds per cubic foot, manufactured by Gustin Bacon Division, Certain-Teed Products Corp., at Plant No. 7, 3031 Fiberglas Road, Kansas City, Kans. (formerly Certain-Teed/Saint Gobain), for Certain-Teed/Saint Gobain Insulation Corp., 100 Presidential Boulevard, Bala-Cynwyd, Pa. 19004, effective May 9, 1969. (It supersedes Approval No. 164.009/24/0 dated Oct. 31, 1967, to show change in name of manufacturer.)

Approval No. 164.009/125/0, "Spray-Don" sprayed asbestos fiber type incombustible material identical to that described in Sprayon Research Corp. letter dated March 3, 1969; approved without adhesive in a density of 11 through 15 pounds per cubic foot, manufactured by U.S. Gypsum Co., Plainfield, N.J., for Sprayon Research Corp., 1101 Northeast 110th Street, Miami, Fla. 33161, effective May 14, 1969.

Dated: June 13, 1969.

W. J. SMITH,
Admiral U.S. Coast Guard
Commandant.

[F.R. Doc. 69–7201; Filed June 17, 1969; 8:49 a.m.]

AMERICAN BATTLE MONUMENTS COMMISSION

STATEMENT OF ORGANIZATION, FUNCTIONS, AND PROCEDURES

Section 4 of the Statement of Organization, Functions, and Procedures, published on page 17865 of the FEDERAL REGISTER of November 30, 1968, is revised to read as follows:

SEC. 4. *Procedures governing availability of records and information.* (a) This part is issued pursuant to 5 U.S.C. 552.

(b) Records available to the public on request. Records of the Commission are made available, upon request, for inspection and copying in accordance with the provisions of this section and subject to the limitations stated in section 4(c). Records falling within the exemptions from disclosure set forth in section 552 (b) of title 5 of the United States Code and in section 4(c) of this part may, at the discretion of the Secretary, be made available if disclosure would not adversely affect the statutory responsibilities of the Commission, or some public or private interest intended to be protected by such exemptions.

(c) Information not disclosed: Except as may be authorized by the Secretary, information of the Commission that is not available to the public through other sources will not be made available for inspection, examination, or copying by any person if such information:

(1) Is exempted from disclosure by statute or executive order;

(2) Relates solely to internal personnel rules or practices of the Commission;

(3) Relates solely to personal information on employees other than their names, position titles, grades, salaries, and duty stations.

(d) Public access to information and records. Requests for information or for inspecting or copying records should be made orally or in writing to the Secretary, American Battle Monuments Commission, 2018 Munitions Building, Washington, D.C. 20360, where facilities are

available for such inspecting and copying.

(e) Appeals: Any person who is denied access to records of the Commission may, within 30 days thereafter, file with the Commission a written request for review of such action.

(f) Subpoenas: If an officer or employee of the Commission is served with a subpoena demanding the disclosure of information or the production of files, documents, and records described in section 4(c), he shall promptly inform the Secretary and ask for instructions. Unless the Secretary has authorized disclosure of the relevant information, the person shall appear at the time and place mentioned in the subpoena and respectfully decline to produce such information or give any testimony with respect thereto, basing his refusal upon this part.

AMERICAN BATTLE MONUMENTS COMMISSION,
A. J. ADAMS,
Major General, U.S. Army, Secretary.

JUNE 12, 1969.

[F.R. Doc. 69-7172; Filed, June 17, 1969; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19362]

ADDITIONAL SERVICE TO COLUMBIA AND AUGUSTA CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding will be held before the undersigned Examiner on July 15, 1969, at 10 a.m., e.d.s.t., in the Senate Hearing Chamber, South Carolina General Assembly, State Capitol, Columbia, S.C. Upon conclusion of the Columbia session, at which the evidence of State and Civic Parties will be received, the hearing will reconvene on July 21, 1969 at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. to receive the evidence of the carrier applicants.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the prehearing conference report served on March 26, 1969 and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 12, 1969.

[SEAL] LOUIS W. SORENSON,
Hearing Examiner.

[F.R. Doc. 69-7215; Filed, June 17, 1969; 8:51 a.m.]

[Docket No. 18496; Order 69-6-68]

CITY AND AIRPORT AUTHORITY OF LINCOLN, NEBR.

Order Regarding Application Set for Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of June 1969.

In Order 69-2-109, the Board granted the petition of Lincoln, Nebr., for reconsideration of Order 68-12-12 and directed that the application of Lincoln, Docket 18496, be set for hearing, stating that while it was not prepared to hear Lincoln's application immediately, it expected to reach the application in the reasonably near future.

The Lincoln application requests issuance and amendment of certificates of public convenience and necessity for one or more air carriers to engage in scheduled air trasportation of persons, property, and mail between (1) Lincoln-Chicago, (2) Lincoln-Minneapolis/St. Paul, (3) Lincoln-St. Louis, and (4) Lincoln-Seattle/Portland as coterminals.

While the Board is prepared to go to hearing on the first three proposals of the Lincoln application, the Board is not persuaded that need exists for examination of the Lincoln-Seattle/Portland proposal. The Board notes that Lincoln in various pleadings seeking expansion of the Service to Omaha and Des Moines Case, Docket 18401 et al., and again in requesting that the record in that case be reopened, stressed its need and pressed for hearing on the Chicago, St. Louis, and Twin Cities proposals but did not press for consideration of its need for service to Seattle/Portland in that case.

Single-carrier service between Lincoln and Seattle/Portland is now provided by United Air Lines, and service is also available over Frontier Airlines to Denver, connecting there with the several carriers authorized to serve the Denver-Seattle/Portland markets. The Board notes that the 1967 O&D surveys reflect a total of 3,690 annual passengers exchanged between Lincoln, on the one hand, and Seattle and Portland, on the other.

On the basis of the foregoing, the Board has decided to amend ordering paragraph 2 of Order 69-2-109 to provide for hearing on the application of Lincoln, Nebr., Docket 18496, to the extent that it requests service between Lincoln-Chicago, Lincoln-Minneapolis/St. Paul, and Lincoln-St. Louis and for dismissal of that portion of Docket 18496 which requests service between Lincoln-Seattle/Portland.

Accordingly, it is ordered, That ordering paragraph 2 of Order 69-2-109 be and it hereby is amended to read as follows:

That the application of Lincoln, Nebr., Docket 18496, to the extent that it requests service between Lincoln-Chicago, Lincoln-Minneapolis/St. Paul, and Lincoln-St. Louis shall be set for hearing before an examiner of the Board at a time and place to be hereafter designated and that the remaining portion of Docket 18496 be dismissed.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-7216; Filed, June 17, 1969; 8:51 a.m.]

[Docket No. 17657, etc.]

EXECUTIVE JET AVIATION, INC.

Notice of Resumption of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, and Board Order 69-6-17, June 4, 1969, that the hearing in the above-entitled proceeding, recessed on January 13, 1969, will be resumed on July 15, 1969, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., June 12, 1969.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[F.R. Doc. 69-7217; Filed, June 17, 1969; 8:51 a.m.]

[Docket No. 20291; Order 69-6-65]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 12, 1969.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conferences 1-2 and 1-2-3 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement amends existing resolutions relating to affinity-group travel by the inclusion of provisions requiring that the tickets for all group members shall be issued by the same IATA-approved agent unless issued by the carrier. This provision would be placed into effect on November 1, 1969. We are herein approving the amended resolution as it applies between the United States and India/Pakistan/Afghanistan/Ceylon/Nepal, and, in accordance with established policy, we will herein disclaim jurisdiction over resolutions which do not apply in air transportation.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found, on a tentative basis, that Resolution JT123 (Mail 593) 076i, which is incorporated in Agreement CAB 20981, R–2, is adverse to the public interest or in violation of the Act; and

2. It is not found that the following resolutions, which are incorporated in the agreement indicated, affect air transportation within the meaning of the Act:

Agreement CAB 20981	*IATA resolution*
R–1	JT12(Mail 593)076f
R–3	JT123(Mail 593)076o

Accordingly, it is ordered, That:

1. Action on Agreement CAB 20981, R–2, is deferred with a view toward eventual approval; and

2. Jurisdiction is disclaimed with respect to Agreement CAB 20981, R–1 and R–3.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 69–7218; Filed, June 17, 1969; 8:51 a.m.]

[Docket No. 20898; Order 69–6–60]

TYPE D AIR FREIGHT CONTAINERS

Order Regarding Application for Exemption To Conduct Experimental Leasing Program on Carrier-Owned

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of June, 1969.

By application filed April 9, 1969, six domestic airlines[1] request exemption from sections 403, 404, 411, and 412 of the Federal Aviation Act of 1958 with respect to conducting a 9-month experiment in one-way trip rental of a reusable carrier-owned Type D aluminum air freight container,[2] limited to the cities of New York, Chicago, and Los Angeles. Under the present container program of the carriers, Type D containers must be shipper-owned, and are essentially of a nondurable construction, primarily because of a tare weight allowance limitation of 63 pounds. The capital cost of such containers is understood to be typically about $20–$25, with a probable life expectancy of 15–18 (loaded) trips. The shipper must bear the expense of any return (empty) trips for positioning of his container inventory.[3] The total container cost to the shipper, per round-trip, is probably substantial.

The carriers state that shippers would employ Type D containers to a substantially greater extent if such containers were carrier-owned, and could be made available on a one-way trip rental basis at a charge considerably below that now being borne by the shipper, and, in order to provide a more durable unit and insure greater trip life, that an aluminum container has been developed[4] with a tare weight of 96 pounds. However, the carriers' agreement and their container tariff provide only a 63-pound tare allowance for the Class D containers and, therefore, the additional 33 pounds in the aluminum unit would discourage shippers from leasing it. The carriers further state that publication of their proposed Type D container one-way rental offering in their tariffs would create an undue burden and other difficulties regarding possible charges of (a) inadequate service, because of the very limited number of available containers; (b) undue preference, because of the special tare allowance being available only for these particular containers, and (c) unjust discrimination, because the rental service is being restricted only to shipments moving between New York, Chicago, and Los Angeles. The carriers, therefore, have requested exemption from complying with the requirements of sections 403, 404, 411, and 412 of the Act.

No opposition to the carriers' application has been received.

Upon consideration of the carriers' request, the Board will deny the exemptions sought.

The carriers' proposal to offer a one-way rental service utilizing a durable container appears to be a worthwhile feature of their containerization program. However, we have serious reservations concerning the specific proposal for which the carriers seek exemption from various sections of the Act. Under this proposal, shippers who utilize the carriers' rental containers would obtain a rate reduction in the form of an additional 33-pound allowance which is not available to other shippers who may use substantially identical containers. It appears that, without the additional 33-pound allowance, the use of these heavier metal containers would be precluded. The carriers have presented no circumstances which would justify, even on an experimental basis, approval of this discriminatory proposal which would have the economic effect of precluding shippers from utilizing their own metal containers and precluding other persons from engaging in the container rental business.

Moreover, no basis exists for exemption from the tariff filing requirements of the Act. Shippers typically receive notice of changes in rates from tariff publications, and the exemption application has presumably not received the same distribution as a tariff publication would. Thus, there is no assurance that the shipping public, and other persons who might be adversely affected by the proposal, have had notice of the exemption application, and the failure to file the proposal in the form of a tariff has thus deprived them of the opportunity to object. The Act contemplates that the tariff is the vehicle by which the public receives information as to a carrier's service and rates, and as the mechanism for fixing the legal obligations of the parties and insuring equal treatment of all.

Accordingly, pursuant to the Federal Aviation Act, and particularly sections 403, 404, 411, 412, and 416(b) thereof,

It is ordered, That:

1. The application of American Airlines, Inc., Continental Air Lines, Inc., The Flying Tiger Line Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., filed April 9, 1969, in Docket 20898 for an exemption from the requirements of sections 403, 404, 411, and 412 of the Federal Aviation Act is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 69–7219; Filed, June 17, 1969; 8:51 a.m.]

[1] American Airlines, Inc., Continental Air Lines, Inc., The Flying Tiger Line Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

[2] Type D containers, as defined in the carriers' container agreement (Agreement CAB No. 19982–A1) measure 45" high x 58" wide x 42" deep, have a cubic displacement of 63 cubic feet, and a tare weight allowance of 63 pounds.

[3] Some of the carriers offer a $2 per container-return between any two points on their routes.

[4] The carriers have contracted for 75 of the proposed aluminum containers, at a total cost of about $9,400, and propose to lease such units at $7.50 per one-way trip.

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 18559—18563; FCC 69–618]

UNITED TELEVISION CO., INC. (WFAN–TV) ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of United Television Co., Inc. (WFAN–TV), Washington, D.C., Docket No. 18559, File No. BRCT–585, for renewal of license. Washington Community Broadcasting Co., Washington, D.C., Docket No. 18560, File No. BPCT–3849, for construction permit for new television broadcast station. United Television Co., Inc. (WFAN–TV), Washington, D.C., Docket No. 18561, File No. BPCT–3917, for construction permit. Washington Civic Television, Inc., Washington, D.C., File No. BPCT–3835, for construction permit for new television broadcast station. United Broadcasting Co., Inc. (WOOK), Washington, D.C., Docket No. 18562, File No. BR–1104, for renewal of license. Washington Community Broadcasting Co., Washington, D.C., Docket No. 18563, File No. BP–17416, for construction permit for new standard broadcast station.

1. The Commission has before it for consideration (a) the applications for renewal of licenses of Television Broadcast Station WFAN-TV (formerly WOOK-TV) and Standard Broadcast Station WOOK, Washington, D.C., both of which are owned and controlled by Richard Eaton through United Television Co., Inc., and United Broadcasting Co., Inc., respectively (both hereinafter referred to as "United"); (b) the applications of Washington Community Broadcasting Co. (Community) for the frequencies occupied by Stations WFAN-TV and WOOK; (c) the application of Washington Civic Television, Inc. (Civic), for the frequency occupied by Station WFAN-TV; (d) the application of United for a construction permit to make changes in the facilities of Station WFAN-TV; (e) request for special temporary authority filed by United; and (f) petitions to deny or dismiss and related pleadings filed in this proceeding.

2. This order designates for hearing the mutually exclusive applications of United and Community for UHF television Channel 14 and also those of United and Community for standard broadcast frequency 1340 kc in Washington, D.C. The order denies the petitions filed by United against the applications of Community and Civic for the frequency occupied by Station WFAN-TV, dismisses, pursuant to the request of Civic,[1] its application to operate on Channel 14 and denies the request of United for special temporary authority. In addition, the order denies United's "Motion to Dismiss or Defer Action" on the acceptance of Community's application for the WOOK frequency and, insofar as it incorporates issues raised in the Community petitions to deny the license renewal applications of Stations WFAN-TV and WOOK, it grants them.

3. We have denied United's "Motion to Dismiss or Defer Action" on the application of Washington Community Broadcasting Co. to construct a new station operating on 1340 kc in Washington, D.C. because we are convinced that WOOK's last license expired at 3 a.m. October 1, 1966. Consequently, it was the obligation of United to file an application for renewal of the WOOK license if it desired to remain the licensee of that station, and it was also appropriate for the Commission to accept other mutually exclusive applications at that time.

4. United argues that its renewal application (which was filed in April 1962, and designated for hearing on January 19, 1965, Docket No. 15795) was granted for a 3 year term, measured either from the date the hearing examiner's decision became effective (June 23, 1966) or from the date of the designation order. It asserts that the application of Community to construct a new broadcast station on 1340 kc in the Washington, D.C., area should not have been accepted for filing since its license could not be challenged by competing applicants until the last three months of the current license, at which time a renewal application would be on file. United's argument relies on certain language contained in paragraph 4 of the "Conclusions" of the hearing examiner's opinion, where the examiner discussed and rejected the Broadcast Bureau's recommendation that WOOK be granted a 1-year short-term renewal and elected instead to renew the license "on a regular basis", while at the same time imposing a $7,500 forfeiture. In view of the October 1, 1966, regular expiration date for all licenses in the District of Columbia and the fact that the hearing examiner's decision was released only 5 months before, on May 4, 1966, United argues that the examiner must have intended the WOOK license to be renewed for more than just a few months, since he rejected the Bureau's proposal for a 1-year renewal. United further argues that § 73.34(a) of the rules which provides for the expiration of licenses by geographical location, is by its own terms restricted to licenses which are "regularly issued" and therefore inapplicable to WOOK's renewal which, being granted after a hearing, was an "irregular issuance."

5. Community's Opposition emphasizes the fact that on the date the hearing examiner's decision became final, the Commission issued a license on Form 352 which recited that the license authorization expired on October 1, 1966. Community points out that United made no objection to this license, but on the contrary, acquiesced to its terms, as was manifested by the filing of a new renewal application on July 5, 1966. (This is the pending application.) It also asserts that United did not request a waiver of § 73.34(a).

6. We agree with Community that a "regular" renewal is one which extends a license through the end of the current license term, as determined by § 73.34 (a). The word "regular" does not serve to differentiate renewals granted in the course of our normal processing from those granted at the conclusion of a hearing. We believe that whatever ambiguity may have been reflected in the hearing examiner's decision was settled by the issuance of the license, which unequivocally specified October 1, 1966, as the expiration date of the license.

7. Having disposed of United's motion to dismiss or defer action, we turn to a consideration of the merits of Community's petition to deny the WOOK and WFAN-TV renewals. Community asks that the Commission specify issues on four separate matters: (1) Alleged spurious religious programs on WOOK; (2) alleged deceptive advertisements of a book written by Richard Eaton broadcast by Station WOOK; (3) WOOK's "Lucky License" promotional contest; and (4) alleged failure of WFAN-TV to fulfill prior programing proposals. We believe that the first matter requires an issue to determine whether false, misleading, or deceptive statements were broadcast over the air by WOOK. Thereafter, we shall discuss in order the advertisements of the book, matters concerning the past programing of WOOK and WFAN-TV, United's efforts to ascertain the needs and interests of the residents of WOOK's service area, WOOK's "Lucky License" contest, and certain problems concerning the applicants' transmitter site and the request of United for special temporary authority to change WFAN-TV's transmitter site, modify its antenna height and operating power.

Dissemination of false, misleading or deceptive statements by WOOK over the air. 8. Community contends that WOOK regularly broadcasts "spurious" religious programs which allegedly are "patently contrary to the public interest." Programs like those conducted by Reverend M. Bonner, Prophet Thomas, and Prophet Williford are said to exploit gullible and credulous members of the community served by the station by offering listeners, under the guise of religion, magic articles such as "money-drawing incense", "conquer roots",[2] and "spiritual baths",[3] which will cure sickness, pay bills, bring estranged spouses together, give "quick cash money", provide employment and homes, and enable the user to "win" instead of losing in the "game". The "spiritual bath" was offered through the mail, while listeners were invited to come in and meet Bishop Bonner

[1] On Jan. 9, 1969, Civic requested that its application be dismissed and it submitted an affidavit of no consideration in accordance with section 1.525 of the Rules. At the same time the Community application was amended to indicate that 18 of Civic's stockholders had subscribed to 13 percent of Community's stock.

[2] In broadcasts of Sept. 4 and 11, 1966, Community alleges (and United does not deny) that Bishop Bonner said:

I will be in Washington, all day on tomorrow * * * I am coming to bless you in a very special way * * * We are bringing tomorrow, Monday, a very special * * * money drawing root * * * This root has helped several that was separated. Men that wanted their wives back, God gave them back. Vice-a-versa. Men wanted employment, got employment. They wanted houses, got houses. They wanted quick cash money, they got it. If they wanted something else, they got it. Also on tomorrow all on tomorrow, we are passing out a very special money drawing incense. (The program continued:) This is Bishop Bonner * * * Come for one of our conquer roots. You want to conquer something? Every day you try to win and you don't win. You put a little money here and you put a little money there and you don't win. I'm going—men and women—I'm to give you one of these very special roots * * * we'll tell you when you come in tomorrow where and how to carry it—on the weekend you go someplace and, you know you want to do something, you try, you know, you will be the most successful person in the game.

[3] The instructions of Prophet Thomas on the procedure for the spiritual bath were as follows:

I want to explain to you children right now how to use the spiritual bath. I want to tell you how to use it, for your best medicine * * * I want you to first of all to take this bath on an even hour. Those are saying, what do you mean by an even hour? That means 2 o'clock, 4 o'clock, 6 o'clock, 8 o'clock, 10 o'clock, or 12 o'clock, and that can be in the morning or at night * * * I want you to take the package that I am going to send you and place it in your tub on an even hour and I want you to repeat or read the 23d section of Psalms and see what the Lord can do for you.

and others to get the magical roots. Also offered was a type of consultation with Prophet Williford which would bestow "luck" to the first 13 visitors.[4] Community stresses that these items were not made available gratuitously, hence the Commission could properly consider whether or not WOOK was broadcasting false, misleading, or deceptive solicitations for these items and services.[5] Community also alleges that some of the statements broadcast are not in the public interest or are against public policy because they allegedly encourage gambling and prevarication.[6]

9. United's opposition to the petition to deny challenges on first amendment grounds the authority of the Commission to question the bona fides of the religious ministers who conducted the programs or the various articles offered by them for use in the practice of the faith. United rejects Community's use of the term "spurious" religions, and asserts that Prophet Thomas' spiritual baths are comparable to the rite of baptism recognized by most Christians, and that the "conquer roots" offered by Bishop Bonner are talismans similar to such things as St. Christopher's medals of Catholics and Mezuzahs of Jews.

10. We have determined that a substantial and material question of fact has been raised relating to whether or not the described announcements or advertisements were false, misleading, or deceptive. The Communications Act of 1934, as amended, requires that where such questions of fact exist, they must be resolved in an evidentiary hearing. The fact that the articles in question are offered as religious objects creates no bar to an inquiry to determine whether the announcements were false, misleading, or deceptive statements.[7]

11. In view of the unresolved factual questions before us concerning the broadcasting of misleading advertising, the examiner shall consider WOOK's policies and practices on advertising matter to determine whether the licensee has fulfilled its obligation to protect the public from the dissemination over its facilities of false, misleading, or deceptive statements. To this end, the examiner should consider WOOK's past record with regard to complaints claiming false, misleading, and deceptive advertising.[8]

Advertising of Eaton's Book. 12. Community also contends that Station WOOK has broadcast misleading advertising or statements offering WOOK listeners an opportunity to buy Richard Eaton's book, Work Wonders Within Yourself. These statements offered WOOK listeners the book at the price of "$4 instead of $4.95", or as later somewhat modified, at "$4 instead of the published price of $4.95". Community argues that the language of the offer implied that the book was sold elsewhere in the Washington, D.C. area for $4.95. These advertisements according to Community violate guidelines of the Federal Trade Commission. Community states that, in response to telephone inquiries to most Washington area bookstores, only one store indicated that it had the book for sale. In contrast, United furnished a letter (dated Jan. 7, 1967) from Prentice-Hall, Inc., the publisher, in which it stated that a review of the 1964 records indicated that during that year Woodward and Lothrop ordered one copy, Doubleday Store ordered five copies, and Brentano's ordered 100 copies for distribution throughout all of its chain at a retail price of $4.95. The question of whether or not the advertised $4 price for the book constituted a true "bargain" or was false or misleading according to Federal Trade Commission guidelines may be considered under Issue No. 2.

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[4] Prophet Williford is said to have made the following remarks concerning the "lucky thirteen":

Yes I want you to know one thing. This Monday, September 5, Labor Day, that I have it. Somebody says, what you got? I don't have nothing but the naked real thing, to help you on your way. You know everybody is asking for something. I know I am. And I want to see 13 folks this Monday. I call it "The Lucky Thirteen." Thirteen folks will be lucky. If you are unlucky you are certainly not lucky. If you are unlucky you are certainly not lucky * * * I want to make thirteen folks * * * lucky this day, Monday, September 5 * * * If your bills are behind that's my job. I'm here to help you * * * You need money to straighten the condition out. If you want some I want you to see me today starting at 7 a.m. through 1 p.m. Lucky 13.

[5] To get the spiritual bath, Prophet Thomas stated listeners should write to "Prophet Thomas", Post Office Box 1228, Cleveland, Ohio. Listeners were told:

Be sure to include a trinity love offering of $3 to help keep this broadcast on the air. Send all donations in cash or money order only.

To get the benefits of being one of the "lucky thirteen," Prophet Williford told listeners "It don't cost nothing." However, he added:

Tomorrow night I want you to bring me three dimes. That's dimes. That's all I want you to do. Whatever your problem may be, come on and bring me three dimes tomorrow * * * Somebody says how much does it cost. It don't cost nothing. But I'm asking you to give $10 to the cause of Christ. Amen. You drink that much up a week then you're too narrow minded to help yourself. You smoke $10 up a week. You go into the liquor store when you get off the job on Friday and spend $20. Lots of you spend $25 and $35 for some liquor and you're too narrow minded to get out and help yourself. I'm telling you the truth. That's why God don't bless some folks. They pay God too cheap.

[6] Bishop Bonner is alleged to have stated in a broadcast of Sept. 4 and 11, 1966, that the "money-drawing root" could bring "success in the game," and he implored listeners at all costs to come by to get the benefits of the root:

Starting at 7 a.m. before you go to work Monday morning, come by. If you have to take off, take off. Don't go to work Monday morning. If you got to be late, call and say I've got to go to the doctor. I'm sick. The baby took sick. The baby fell down the steps. Grandmother took sick. Just anything happened, but come by 1443 G Street NE., before you go to work on tomorrow morning.

[7] The articles offered on WOOK bear striking resemblance to certain magical or necromantic articles which were the subject of a Post Office fraud order, upheld in Gottlieb v. Schaffer, 141 F. Supp 7 (S.D.N.Y., 1956). The Gottlieb fraud order was issued by the Postmaster General pursuant to 39 U.S.C., sections 259 and 732 (now combined in 39 U.S.C. section 4005) which authorized him, upon evidence satisfactory to him that any person is conducting a scheme for obtaining money or property through the mail by fraud, to return such mail to the sender marked "fraudulent" and to prohibit payment of postal money orders or notes sent in payment for the articles. The Gottlieb case involved such items as Holy Miracle cross, Holy Miracle anointing liquid, good luck roots, Magic Formula for Successful Prayer, lodestones, Lucky Whamie hand charm, Success brand incense, money drawing incense, Fast Luck oil, Fast Luck powder, Uncrossing Band powder and perfumes which would bring money, success, good luck, and romance. The Post Office found that the articles did not provide the means to accomplish the results promised in the advertisements, and were of no value therefore, and appealed only to the ignorant and credulous.

[8] In this regard we note that in February 1964, and again in September 1966, the Commission was notified by the Federal Trade Commission that complaints about false and fraudulent advertising had been issued against certain businesses advertising over WOOK facilities. (The 1964 case, World Wide Television Corp., et al, resulted in a cease and desist order which was affirmed by the U.S. Court of Appeals (Third Circuit), 352 F. 2d 303, cert. denied, 384 U.S. 928 (1965). The 1966 complaint involving the Empeco Corp. (d.b.a. Empire Furniture & Appliance Co.) resulted in a final cease and desist order issued by the FTC on Feb. 14, 1967 (Docket No. 8702)). In each instance, we sent a copy of the FTC complaint to WOOK together with copies of our public notice of Nov. 7, 1961, entitled "Licensee responsibility with respect to the broadcast of false, misleading, or deceptive advertising." In that document, we stressed that the licensee's responsibility in this area is not limited to reviewing the advertising copy submitted for broadcast; it has the additional obligation to take reasonable steps to satisfy itself as to the reliability and reputation of every prospective advertiser and as to the latter's ability to fulfill promises made to the public over the licensed facilities. Regarding the 1966 complaint against the Empeco Corp., we requested that WOOK submit a statement concerning the use of its facilities by the Empeco Corp. and the steps taken by the licensee to determine the reliability and reputation of the Empeco Corp. prior to broadcasting its advertisements. In response, WOOK stated that it ceased advertising for the Empeco Corp. 6 days prior to the issuance of the FTC complaint; that Empeco had been doing business at the same location for a number of years during which its advertisements had been accepted by other unnamed newspapers and radio stations in the Washington, D.C., area; and that it had received no complaints from its listeners concerning Empeco. In December 1965, a different complaint was received from a Richard W. Shaw alleging that a Bishop Butler, in advertisements over WOOK for a "blest consecrated wallet", included several testimonies by a female voice which ranged from the healing of an ill person by placing the wallet beneath his pillow to bringing raises in salaries and prestige to its owners. The wallets were to be available at the Annapolis Hotel on Dec. 14, 1965, for $2 each. A copy of this complaint was sent to the FTC for its review, but no action was initiated by that agency.

Past programing on WFAN–TV and WOOK. 13. Community's petition alleges that WFAN–TV failed to fulfill its prior programing proposals. In support of this allegation Community states that its spot-check monitoring of WFAN–TV revealed that eight of the live programs proposed in the July 1966, renewal application (totaling 7½ hours of the 44 hours WFAN–TV broadcasts per week) have rarely, if ever, been carried and that no amendment to the WFAN–TV renewal application to reflect these substantial changes was filed with the Commission within 30 days as is required by section 1.65 of the rules. Furthermore, Community alleges that United's explanation as to why one of its proposed programs was dropped raises inconsistencies which should be resolved in a hearing.

14. United's opposing pleading asserts that WFAN–TV has substantially fulfilled its programing proposals and that changes in the schedule were "minor variations" for which there were good reasons. Also, it refers to the 1966 renewal application which described the programing proposals as a "unique experiment" in all-live programing, the overall success of which could not be predicted.

15. In brief, Petitioner seeks an issue on compliance with § 1.65 and a proposal versus performance issue on WFAN–TV's programing for failing to implement or continue some 7½ hours of live programing out of a 44-hour broadcast week. The licensee maintains that its actions were reasonable since WFAN–TV is a UHF station in a market with four VHF and two other UHF television stations (one of these UHF stations is noncommercial) and is seeking to establish a viable program format in order to sucessfully compete. The points raised by Community (compliance with § 1.65 and proposal versus performance) may be considered under the standard comparative issue.

16. With respect to WOOK, we note that with the exception of an amendment filed April 30, 1969, listing certain public affairs and other programing now carried by the station, the applicant has filed virtually no past programing information with the Commission since the composite week analysis was filed with the April 1962, renewal application. No composite week analysis was filed with the July 1966, WOOK renewal application. Because of the paucity of programing information about Station WOOK after the date of its last renewal, we are directing United to submit WOOK's logs and part II, section IV–A (FCC Form 303) data for the 1967 and 1968 composite weeks. We also believe that similar data and logs for the 1967 and 1968 composite weeks for WFAN–TV should be submitted to provide more current information about the station's programing. After the filing of this material, the parties will have the right to file such pleadings as called for by the facts.

Ascertainment of community needs and interests. 17. In Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961) and our public notice of August 22, 1968 (FCC 68–847), entitled "Ascertainment of community needs by broadcast applicants", we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. Having reviewed the applications now before us, we find that Community's applications for the facilities occupied by WOOK and WFAN–TV are complete with respect to provisions outlining efforts to ascertain the needs and interests of the public within the stations' proposed service areas. We note, however, that United's application for renewal of the WOOK license is incomplete in that it does not contain specific references to consultations with community leaders for the purpose of determining the ways in which the stations could better serve the public other than interviews with a limited number of leaders appearing as guests on the station's programs. Moreover, the application does not reflect suggestions which United may have received as to how the station could help meet the area's needs. Therefore, we are specifying an issue to determine the efforts made by United Broadcasting Co. to ascertain the community needs and interests of the people in the areas served by WOOK and to determine the means by which the applicant proposes to meet those needs and interests.

WOOK's "Lucky License" promotional contest. 18. In a supplement to its petition, filed in November 1967, Community alleges that a promotional contest entitled "Lucky License WOOK Boss Radio", commenced by WOOK in September 1967, constituted a lottery in violation of 18 U.S.C. section 1304 and § 73.122 of our Rules. Community also contends that the contest was against public policy as it induced contestants to place a sticker on the rear window of their cars in violation of sections 99 and 146 of the Traffic and Motor Vehicle regulations of the District of Columbia.

19. After a careful review of the pleadings concerning this matter, we are of the view that there are no unresolved factual questions necessitating an additional issue in this hearing, nor do the facts raised here bear reasonably on United's comparative qualifications.

Site availability. 20. United seeks the dismissal or denial of the applications of Civic and Community for the frequency occupied by Station WFAN–TV on the grounds that both applications are patently defective since neither applicant had reasonable assurance that the transmitter site specified would be available to it. As originally filed, Civic's application specified as its proposed transmitter site, the present transmitter site, which is owned and used by United for Station WFAN–TV. Community's application specified as its transmitter site the joint tower site located at 2400 Forest Glen Road, Silver Spring, Md., which site was proposed to be utilized by several operating Washington television broadcast stations.[*] United asserts that Civic never contacted United about whether Station WFAN–TV's site would be available for use by Civic in the event of a grant of its application. Furthermore, United states that if its renewal application for Station WFAN–TV is denied, it will not make the site available to Civic since United will continue to use the site for its FM station WFAN. With respect to the proposed joint tower site, United contends that while Community had inquired of the Joint Television Tower Committee (Committee) as to whether it could obtain an option in order to become a party to the joint tower, at the time Community filed its application, it had not received any assurance that it could use the tower. Moreover, United states that Community was subsequently advised by the Committee that it could not give any assurances concerning the availability of tower for use by Community. In this connection, United alleges that if its license to operate on Channel 14 is not renewed, then as a party to the joint tower venture, it would have the exclusive right, subject to the assent of 80 percent of the other parties, to assign its right to use the joint tower to some other party, including the successful applicant for Channel 50, the licensee of Channel 20 or the successful applicant for Channel 14. Finally, United alleges that the failure of Community and Civic to advise the Commission that they had no reasonable assurances that the specified transmitter sites would be available raises a question concerning the character qualifications of both applicants. In addition, United contends that Community's failure to advise the Commission of the nature of the response it received from the Committee raises a question of possible violation of § 1.65 of the Commission's rules, which requires an applicant to maintain the continuing accuracy and completeness of the information furnished in its pending application.

21. Civic states that in specifying Station WFAN–TV's transmitter site, it relied on the reasonable assumption that if United's license is not renewed, United would consider favorably a generous offer for the purchase of its site which would enable it to recoup a portion of its investment. Community asserts that it was reasonable for it to assume that the joint tower would in all probability be available to it or to whoever else was the successful applicant for Channel 14 in the event that United's renewal was denied. Moreover, Community states that if United decided to assign its rights to the licensee of Channel 20 or the permittee of Channel 50, it was reasonable to assume that the assignee would offer to

[*] Plans for the use of the proposed joint tower site have since been abandoned by these stations. Civic and Community subsequently amended their respective applications in order to specify new transmitter sites, the availability of which are not contested.

make available to Community the site from which it would move. Both applicants contend that since they acted in a reasonable manner in their respective determinations concerning site availability, no question exists concerning their character qualifications. With respect to United's contention of possible violation of § 1.65 of the rules, Community asserts that since it viewed the Committee's letter as not foreclosing future negotiations for the joint tower site, it could reasonably believe that the site would still be available and therefore there was no need to amend the application.

22. We are of the view that the selection of the transmitter sites specified in both applications did not render these applications patently defective. In considering the question of site availability, we have held that neither absolute assurance nor legal control of a site is necessary, but only that when an applicant proposes a site, he must have done so with reasonable assurance in good faith that the site will be available to him. Beacon Broadcasting System, Inc., FCC 61-684, 21 R.R. 727 (1961); Brennan Broadcasting Company, FCC 57-1087, 15 R.R. 12e (1957). Under the present circumstances, we find that at the time of filing the applications, both applicants could have reasonably concluded that the sites specified by them would in all probability be available in the event of a denial of the license for Station WFAN-TV. It is not at all unreasonable to assume, as Civic assumed, that United would be receptive to an offer to purchase its site if its renewal were denied by the Commission. Similarly, the assumption made by Community that if United's renewal is denied, United's space on the proposed joint tower site would be made available by United to the successful applicant for Channel 14 is also a reasonable assumption. In the event that United decided to assign its rights to another licensee (Channel 20) or permittee (successful applicant for Channel 50), then Community would be in a position to negotiate with that party for the sale of its site. In any event, since both applicants subsequently amended their applications to specify different transmitter sites, and no question has been raised by United concerning the availability of the new sites, we believe that the question of reasonable assurance is now moot.

23. With respect to United's contention that the conduct of both applicants concerning the selection of their transmitter sites raises a question with regard to the character qualifications, we find that both applicants acted in good faith and that the specification of a character qualifications issue is not warranted. We also believe that Community's failure to advise the Commission of the nature of the response it received from the Committee does not constitute a violation of the applicant's obligations under section 1.65 of the Rules since the letter did not seem to preclude future negotiations for the proposed site between the parties concerned.

24. Full comparison of the programing proposals is warranted, when one applicant proposes predominantly specialized programing and the other general marketing programing. Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965). In this case, Community proposes predominantly Negro oriented programing for its proposed television broadcast station and United general market programing for Television Broadcast Station WFAN-TV. Therefore, the programing proposals of the applicants may be compared under the standard comparative issue.

25. The present predicted Grade B contour of Television Broadcast Station WFAN-TV presently overlaps a portion of the present predicted Grade A and city-grade contours of commonly owned Television Broadcast Station WMET-TV, Channel 24, Baltimore, Md. In the event of a grant of the application (BPCT-3917) for changes in the facilities of Station WFAN-TV, the predicted Grade B contour of that station would entirely overlap the predicted Grade A and city-grade contours of Station WMET-TV. Richard Eaton, the owner of both stations has indicated that in the event of a grant of the WFAN-TV renewal application and/or a grant of the pending application to change facilities, he will take prompt steps to dispose of any interest, direct or indirect, which he may have in Station WMET-TV. Accordingly, an appropriate ordering clause is included.

Request for special temporary authority. 26. United has submitted a request for special temporary authority to change the location of Station WFAN-TV's present transmitter site to the site proposed in its pending application (BPCT-3917) and to operate from the proposed site with a new antenna and with visual maximum effective radiated power of 246.5 kw from an antenna height of 770 feet above average terrain. WFAN-TV's pending application proposes operation with visual maximum effective radiated power of 1265 kw from an antenna height above average terrain of 770 feet. The station is presently authorized to operate with maximum visual effective radiated power of 245 kw from an antenna height of 330 feet above average terrain. The special temporary authority is requested for the period pending Commission action on United's application for a change in transmitter location and until the conclusion of any comparative hearing which may be required for operation on Channel 14. In support of its request, United states that Station WFAN-TV operated at a substantial loss in 1967, and that this was directly related to the inferior quality of the station's signal which results from a low effective antenna height causing not only reduced theoretical coverage but actual service shadowing and reflection. United asserts that by operating with the requested authority, there would be an increase in the area of service and an improvement in the quality of such service and that the location of the transmitter at the site presently used by the other two operating Washington UHF television broadcast stations would enable common antenna orientation. United indicates that it would not claim any comparative advantage from whatever capital expenditures may be made in operating pursuant to a grant of the request; that it will attempt to minimize capital expenditures and that Civic has consented to a grant of the request. Community opposes a grant of the request on the grounds that the proposed operation would violate the duopoly provisions of § 73.636 of the Commission's rules since there would be a substantial increase in the already existing service overlap between Station WFAN-TV and its commonly owned Station WMET-TV, Baltimore, Md., and that grant of the request would be prejudicial to the rights of the parties in the comparative hearing to be held for operation on Channel 14. We believe that grant of the special temporary authority is not warranted because of the possible prejudicial effect which such action might have on the comparative hearing to be held for regular operation on Channel 14. United is not proposing a joint interim operation of the facility in question, but rather it is seeking special authority to operate its station with improved facilities pending the outcome of the comparative hearing. In Community Broadcasting Co., Inc. v. Federal Communications Commission, 107 U.S. App. D.C. 95, 274 F. 2d 753, 19 R.R. 2047 (1960) the United States Court of Appeals for the District of Columbia Circuit had occasion to consider a Commission grant of temporary authority to one of two competing applicants in a comparative hearing. In reversing the Commission's action, the Court indicated that in view of the possible prejudicial effect that the grant of special authority would have on the comparative hearing, the Commission erred in granting temporary authority. In the present situation, we cannot conclude that there are compelling public interest considerations which would lead us to grant the requested temporary authority. Since Washington presently has four operating VHF television stations and two operating UHF stations, in addition to the present operation of Station WFAN-TV, we do not believe that there is any imperative public need for the improved service proposed by WFAN-TV. While a grant of the request might serve to improve the competitive position of Station WFAN-TV and to foster UHF antenna orientation, these considerations are not of sufficient weight to balance the possible prejudicial effect on the comparative hearing. Moreover, we believe that a grant would be inconsistent with the duopoly provisions of § 73.636 of the rules, since it would result in a substantial increase in the overlap of the service contours of commonly owned stations WFAN-TV and WMET-TV, Baltimore, Md.

27. There appears to be a significant disparity in the proposed Grade B contours of the television broadcast stations proposed by the applicants. In accordance with the Commission's policy, evidence with respect to which of the proposals would represent a more efficient

use of the frequency may be adduced under the comparative issue."[10]

28. Washington Community Broadcasting Co. is qualified to construct, own and operate the proposed new television broadcast station and new standard broadcast station, and except as indicated by the issues specified below, United Television Co., Inc., is qualified to construct, own, and operate Television Broadcast Station WFAN–TV and United Broadcasting Co., Inc., is qualified to own and operate Standard Broadcast Station WOOK. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

29. *Accordingly, it is ordered,* That United Broadcasting Co., Inc., file logs and part II, section IV–A, FCC Form 303, information for the composite weeks for 1967 and 1968 for Station WOOK, and that United Television Co., Inc., file logs and part II, section IV–B, FCC Form 303, information for the composite weeks for 1967 and 1968 for Station WFAN–TV.

30. *It is further ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications of Washington Community Broadcasting Co., United Television Co., Inc., and United Broadcasting Co., Inc., are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether the broadcast by Station WOOK of announcements which advertised articles such as "conquer roots", "money-drawing roots", and "spiritual baths", constituted false, misleading, or deceptive advertisements.

(2) To determine whether United Broadcasting Co., Inc. has taken reasonable measures to protect its listening public from false, misleading, or deceptive advertising over its facilities.

(3) To determine the efforts made by United Broadcasting to ascertain the needs and interests of the areas served by Station WOOK and the means by which the licensee proposes to meet those needs and interests.

(4) To determine in the light of the evidence adduced under the foregoing issues whether a grant of the renewal of the license of Station WOOK would be in the public interest.

(5) To determine which of the mutually exclusive applications for a license to operate on 140 kc. in Washington, D.C., would better serve the public interest, convenience, and necessity.

(6) To determine which of the mutually exclusive applications for a license to operate on Television Channel 14 in Washington, D.C., would better serve the public interest, convenience, and necessity.

(7) To determine, in the light of the evidence adduced pursuant to the foregoing issues, (a) which of the AM applications should be granted, and (b) which of the TV applications should be granted.

31. Since Issues 1 and 2 are based largely upon charges made in the petitions to deny, the burden of proceeding with the introduction of evidence on these issues will be upon Community; the renewal applicant will then proceed with his evidence and have the burden of establishing that grants of the WFAN–TV and WOOK renewal applications would serve the public interest, convenience and necessity.

32. If the findings under Issues 1 through 3 do not lead to the denial of the license renewal application of WOOK, the findings of these issues may be advanced by the parties as comparative factors with respect to the AM and TV applications.

33. *It is further ordered,* That the application of Washington Community Broadcasting Co. for the facilities of Station WOOK is accepted for filing and § 1.571(c) (cut-off-rule) is hereby waived.

34. *It is further ordered,* That the motion to dismiss or defer action filed by United Broadcasting Co., Inc., is denied.

35. *It is further ordered,* That the petitions to dismiss or deny filed by United Television Co., Inc., are denied.

36. *It is further ordered,* That the application (BPCT–3835) of Washington Civic Television, Inc., is dismissed, pursuant to § 1.568(a) of the Commission's rules.

37. *It is further ordered,* That in the event of a grant of the application (BRCT–585) for renewal of license and the application (BPCT–3917) for a construction permit to make changes in the facilities of Television Broadcast Station WFAN–TV, construction of the new facilities shall not commence until Richard Eaton, the owner of Station WFAN–TV, shall dispose of all of his interest in Station WMET–TV, Channel 24, Baltimore, Md.

38. *It is further ordered,* That the request for special temporary authority filed by United Television Co., Inc., is denied.

39. *It is further ordered,* That in the event of a grant of the application of the Washington Community Broadcasting Co., for the facilities of WOOK, the construction permit shall include the following condition:

> Permittee shall accept such interference as may be imposed by existing 250 watts class IV stations in the event they are subsequently authorized to increase power to 1,000 watts.

40. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for the hearing and present evidence of the issues specified in this order.

41. *It is further ordered,* That the applicants shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: June 4, 1969.

Released: June 13, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[11]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 69–7203; Filed, June 17, 1969; 8:50 a.m.]

[Docket No. 18567; FCC 69–639]

WWJC, INC. (WWJC)

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of WWJC, INC. (WWJC), Superior, Wis., Has: 1270 kc, 5 kw, Day, Requests: 850 kc, 10 kw, Day, for construction permit, Docket No. 18567, File No. BP–17252.

1. The Commission has before it for consideration (a) the above-captioned application, as amended; (b) a petition to deny filed on December 19, 1966, by Midwest Radio-Television, Inc. (hereafter WCCO), licensee of radio station WCCO, Minneapolis, Minn.; and (c) an opposition to petition to deny filed on January 18, 1967, by WWJC, Inc.

2. Petitioner's Station WCCO is a Class I–A station presently authorized to operate on 830 kilocycles with 50 kilowatts of power and a non-directional antenna. Currently pending before the Commission are petitioner's application to operate with 750 kilowatts, employing a directional antenna at night, and an accompanying request for waiver of certin portions of the Commission's rules to allow acceptance and consideration of this superpower proposal on its merits. (Petition for Waiver filed Dec. 29, 1965, Docket No. 11227). WCCO contends that its field intensity measurements demonstrate that prohibitive overlap will occur between WWJC's proposed 25 mv/m contour and WCCO's proposed 750 kilowatt 2 mv/m contour, and that accordingly the two proposals are mutually exclusive and must be designated for a consolidated hearing.[1]

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[10] Harriscope, Inc., FCC 65–1165, 2 FCC 2d 223.

[11] Concurring statement of Commissioner Robert E. Lee filed as part of the original document.

[1] WWJC submitted measurement data with its application taken in August 1965, on Station WCCO, on radials 22° and 34° to establish that no overlap would be involved with WCCO if that station should eventually operate with 750 kilowatts of power. These measurements, on radials which bracket the WWJC transmitter site, clearly indicated that there would be no 2 and 25 mv/m overlap. For this reason, the WWJC application was accepted for filing.

3. The engineering statement filed with the petition places reliance upon measurements made on WCCO in February 1941 along the radial 26° True and during the time WCCO operated on 810 kilocycles with 50 kilowatts power prior to its present operation on 830 kilocycles with the same power. Petitioner's engineer extrapolated this measurement data to the 750 kilowatt level and projects the proposed WCCO 2 mv/m contour in the direction of Superior to a point just beyond the WWJC site. Hence, petitioner claims, overlap of the WWJC proposed 25 mv/m and the WCCO proposed 2 mv/m contour would be unavoidable.

4. The applicant on January 18, 1967, filed an opposition to the WCCO petition claiming that the measurements of the WCCO signal on 830 kc made by the applicant in August 1965 on the two radials 22° and 34° True are more representative of the actual conductivity existing today than the measurements made by the petitioner 26 years ago on the single radial and on the old frequency of 810 kilocycles. Furthermore, applicant states, it is not possible to determine the distance to the proposed WCCO 2 mv/m contour on 830 kc directly from measurements made on 810 kilocycles since these distances are to be found on two entirely different FCC graphs for the frequencies involved. Moreover, WWJC contends that a correct analysis and extrapolation of the WCCO 1941 measurements to the 750 kilowatt level (making allowance for the increased attenuation of the signal on 830 kilocycles viz-a-viz the 810 kilocycles signal) will show a value of ground conductivity at the distance where the 2 mv/m signal will occur which is lower than the value of 5 mmhos/m determined by the petitioner. Consequently, WWJC concludes that there will be no overlap of the proposed WCCO 2 mv/m contour with the proposed WWJC 25 mv/m contour.

5. Commission analysis of all the measurement data reveals that the measurements made by applicant in the summer of 1965 on 22° and 34° establish the conductivity as being significantly lower over the entire path than the measurement data submitted by petitioner. Furthermore, based on our analysis of the petitioner's own measurement data converted to the higher frequency and to the 750 kilowatt level, we find that the proposed WCCO 2 mv/m contour with 750 kilowatts power will extend to a point just virtually tangent to the predicted WWJC 25 mv/m contour.

6. The city of Superior, which is contiguous with Duluth, has a population of 33,563, and Duluth a population of 106,884, according to the 1960 U.S. Census. Based on WWJC's engineering information and data, the applicant's present 5 mv/m contour already encompasses all of the city of Duluth. The proposal would substantially expand this coverage to encompass adjacent suburban and rural areas as well, and also place a 25 mv/m signal for the first time over Duluth's principal business area. Under these circumstances, the Commission's section 307(b)-5 mv/m presumption arises.[2] Madison County Broadcasting Co., Inc., 5 FCC 2d 674, recon. den. 8 FCC 2d 752, 10 RR 2d 587 (1967).

7. In an amendment filed May 31, 1967, the applicant submitted data and arguments in an attempt to rebut the aforementioned presumption. However, after examination of this material the Commission finds that WWJC has failed to overcome this presumption and that an evidentiary hearing must be held to explore the matter further.

8. Except as indicated by the issue specified below, the applicant is qualified to construct, own and operate as proposed but, in view of the foregoing, the Commission is unable to find that a grant of the application would serve the public interest, convenience, and necessity, and is of the opinion that it must be designated for hearing on the issues set forth below.

9. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issue:

(1) To determine whether the proposal of WWJC, Inc., will realistically provide a local transmission facility for its specified station location or for another larger community, in the light of all the relevant evidence, including, but not necessarily limited to, a showing with respect to:

(a) The extent to which the specified station location has been ascertained by the applicant to have separate and distinct programing needs.

(b) The extent to which the needs of the specified station location are being met by existing standard broadcast stations.

(c) The extent to which the applicant's program proposal will meet the specific, unsatisfied programing needs of its specified station location.

(d) The extent to which the projected sources of the applicant's advertising revenues within its specified station location are adequate to support its proposal, as compared with its projected sources from all other areas.

(2) To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience, and necessity.

10. *It is further ordered*, That the petition to deny filed by Mid-West Radio-Television, Inc., is denied.

11. *It is further ordered*, That, to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

12. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: June 5, 1969.

Released: June 12, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 69-7204; Filed, June 17, 1969; 8:50 a.m.]

[Docket No. 18519; FCC 69-647]

WESTERN UNION TELEGRAPH CO.

Order Specifying Issues

In the matter of the application of the Western Union Telegraph Co. for authorization and approval of the acquisition of Teletypewriter Exchange Service properties, facilities and operations, Docket No. 18519, File No. T-C-2228.

1. The Commission has under consideration its order, FCC 69-333, adopted April 2, 1969, and released April 9, 1969, in which the above-entitled application by the Western Union Telegraph Co. was designated for hearing.

2. The Commission stated that the purpose of the designated hearing would be to determine whether the proposed acquisition (1) is authorized by section 222(a) of the Communications Act of 1934, as amended; (2) conforms to all other applicable provisions of section 222; and (3) is in the public interest.

3. This case has particular significance in that, but for the provisions of section 222 and in the absence of Commission approval thereunder, the proposed acquisition would be presumptively in conflict with the antitrust laws of the United States. Therefore, in order to clarify the scope of the hearing issues designated by the Commission and to provide for a more orderly and expeditious proceeding, we shall identify herein the specific questions raised by the application. The resolution of these questions will enable the Commission to determine whether section 222 and the public interest warrant the requested authorization and approval.

4. *Accordingly, it is ordered*, That the following issues shall be considered in the designated hearing and resolved as a part of the evidentiary record herein.

I. Financial effects of the acquisition:

A. What will be the particular and total costs to Western Union if the acquisition is consummated and over what time period will these costs be incurred?

[2] Policy Statement on Section 307(b) Consideration for Standard Broadcast Facilities Involving Suburban Communities, adopted Dec. 22, 1965, 2 FCC 2d 190, 6 RR 2d 1901.

[3] Dissenting Statement of Chairman Hyde filed as part of the original document.

B. What is the basis for the purchase price(s) agreed to by the parties?

C. What effect will the proposed acquisition, if consummated, have on the revenue requirements of Western Union?

D. What will be the effects upon revenues and earnings of A.T. & T. if the acquisition is completed?

E. How will Western Union finance the acquisition?

F. What effect would the acquisition have on both short-term and long-term pricing policies of Western Union for TWX service and its other services?

G. What effect would the sale have on pricing by A.T. & T. for its non-TWX services or on the provision or pricing of any new services?

H. What effect would the acquisition have on the financial interests of stockholders of Western Union and A.T. & T. and the Bell System companies?

II. Effects on services and facilities:

A. What will be the methods and manner by which Western Union will provide TWX service?

B. Will such service be equal or improved in character, scope, quality, speed, and adequacy as compared to the TWX service now provided by the Bell System and its connecting carriers:

1. During the interim operating period referred to in Appendix C, sections 501 and 502, attached to Western Union's application?

2. After the expiration of such period?

C. To what extent will there be integration of TWX with Telex service and Public Message Service and over what time period will it take place?

D. What public benefits will flow from such integration?

E. Will such integration result in increased efficiency, economy and flexibility to Western Union?

F. To what extent will integration benefit or burden Western Union subscribers?

G. To what extent will the proposed transaction or arrangements thereunder affect Western Union's overall ability to provide adequate nationwide telegraph service and its ability to proceed with its proposed modernization program and integration of Public Message Service with Telex and TWX services?

III. Effects on competition:

A. What will be the effects of the acquisition, if consummated, on competition involving communications common carriers as well as other actual or potential competitors, including but not limited to the interconnection of customer-provided devices?

B. What services, if any, will A.T. & T. forego as a result of transferring the TWX service to Western Union?

C. What policies and practices will Western Union follow in the procurement of TWX facilities and associated operating materials?

D. How will the effects on competition resulting from consummation of the acquisition affect the public interest?

IV. Employees involved:

A. What, if any, employee problems will be created by the transfer of TWX service and how will such problems be resolved?

B. To what extent will additional personnel be required by Western Union to operate its proposed TWX service?

C. What are Western Union's plans and prospects for recruiting and training the additional manpower needed?

D. To what extent will personnel be transferred from other jobs within Western Union?

E. What effects, if any, will job reassignments have on Western Union's ability to sustain the quality of its other services?

F. How will pension, seniority and other employee rights be affected if the acquisition is completed?

V. Technical problems:

A. What, if any, will be the engineering and operating problems resulting from the acquisition and how will they be resolved?

VI. Effects on independent telephone companies:

A. What will be the financial effects of the acquisition, if consummated, on TWX and Telex settlements with the independent telephone companies?

B. What effects on services provided by independent telephone companies will result from the acquisition?

C. How will the acquisition affect competition between Western Union and independent telephone companies providing TWX service?

D. If the acquisition is consummated, what will be the interconnection problems, if any, and how will they be resolved?

VII. What conditions, if any, should the Commission place on the TWX transfer if Western Union's application for authorization and approval is granted?

Adopted: June 11, 1969.

Released: June 13, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-7205; Filed, June 17, 1969; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[Staff Investigation and Informal Conferences]

NONVESSEL OPERATING COMMON CARRIERS BY WATER (NVOCC'S) IN FOREIGN AND DOMESTIC OFFSHORE COMMERCE OF UNITED STATES

Notice of Further Informal Conferences

By FEDERAL REGISTER publications of February 12, 1969, and April 3, 1969, the Federal Maritime Commission instituted a nonadjudicatory review of the operations of NVOCC's in the foreign and domestic offshore commerce of the United States to be undertaken by the staff of the Federal Martime Commission. The purpose of the staff inquiry is to gather background facts on the operation and problems of NVOCC's and to ascertain if there is a need for clear guidelines, rules, and/or legislation in the area of NVOCC regulation.

Comments were solicited from all known NVOCC's, steamship lines, steamship conferences, and shippers, and informal conferences were held at which statements were received from representatives of these industries. Statements of the parties submitting facts and opinions to the staff are summarized herein.

A further conference will be held in the offices of the Federal Maritime Commission, Room 1210, 1405 I Street NW., Washington, D.C., on June 25, 1969, beginning at 10 a.m.

All interested parties are invited to attend and they will be afforded the opportunity to present further comments and to rebut the statements or opinions expressed or hereinafter set forth. A transcript will be made and any party may submit statements in the nature of briefs within 4 weeks after the hearing.

Position and recommendations of the majority of NVOCC's. (1) The NVOCC provides a needed and valuable service to the public by focusing primarily on the requirements of shippers who do not have the capabilities for tendering large volumes of cargoes to vessel-operating common carriers. This activity has been largely ignored by the steamship operators. Moreover, the steamship operators do not have the terminal facilities to handle and consolidate smaller lot shipments. Consequently, the NVO provides a valuable service to the steamship lines and the shipping public. The NVOCC has thus created an important position in the transportation economic system. The NVOCC should be accorded all privileges and rights of a common carrier.

(2) Although the shipping statutes do not prohibit the NVOCC, a common carrier by water, from joining conferences and engaging in ratemaking activities with that conference, the NVOCC has no desire to engage in that activity. Rather than to become a part of the conference system, the NVOCC would prefer the establishment of rates by the conference system tailored to the NVOCC type of operation. With such a rate the dual rate contract would become unnecessary (the NVOCC has questions as to its legality when between the NVOCC and an underlying carrier). The NVOCC would prefer the "tailored" rate.

(3) The NVOCC's are unanimous in their belief that financial responsibility should be imposed; insurance requirements should be imposed; performance bonds should be made mandatory; and fitness criteria be required, before NVOCC operations are begun. With one exception the NVOCC's believe that for purposes of section 15 arrangements they should be treated as any other common carrier by water and be permitted to make whatever arrangements, including divisional arrangements with underlying carriers, they deem necessary to

[1] Commissioner Wadsworth absent.

transport the traffic. A household goods NVOCC states that ocean carriers should be required to provide service to all NVOCC's equally. Section 15 agreements if negotiated individually would be likely to create special advantages that would distort competition between the NVOCC's.

(4) The NVOCC has no objections to financial data reporting in the domestic offshore trades but would prefer that the form of the report be discussed with and subject to industry suggestions and comments.

Positions and recommendations of the majority of steamship lines. (1) For the most part the steamship lines are exploring the feasibility of expanding facilities to take care of container traffic. These facilities may embrace those facilities necessary to the stuffing and consolidating into trailers of small lot shipments. Consequently, the NVOCC for the most part is in direct competition with the steamship operator. Moreover, the steamship lines have large investments in facilities and equipment which must be protected. If the NVOCC is permitted to exist it should have restrictions imposed and should be placed in a category different than that of an equipment owning common carrier by water.

(2) The steamship lines feel that the NVOCC is no different than any other shipper with respect to the transportation of its traffic by the steamship lines and therefore, no special treatment should be accorded the NVOCC than is accorded other shippers.

(3) The steamship lines compete with the NVOCC. However, the NVOCC performs many varied services for the shipper, and these services for the most part are not fully set forth in the NVOCC tariff. The steamship lines should know precisely the areas of service which the NVOCC is offering because without that knowledge there could be substantial diversion of the steamship lines' traffic. The regulatory agency should, therefore, require that every service the NVOCC performs for a shipper should be fully and precisely set forth in its tariff. Moreover, if these services go beyond the area of activity normally performed by a carrier for its shipping public additional charges should be assessed.

(4) Financial responsibility, bonding, and fitness requirements should be imposed on the NVOCC.

(5) The steamship lines have long engaged in arranging for and carrying goods which originate at points other than the port cities. The NVOCC does not perform services that the steamship lines could not perform.

Position and recommendations of the majority of conferences. (1) The NVOCC's are shippers and steamship members of the conferences must continue to treat NVOCC's as shippers. No special rates or provisions should be accorded the NVOCC in the conference tariffs.

(2) The NVOCC is not a "common carrier by water" within the meaning of that term in the Shipping Act. The persons responding to the staff's request for statements are for the most part, those segments of the maritime industry that have been adversely affected by the superimposition of the NVOCC upon the shipping business. The decision of the old Federal Maritime Board in Docket No. 815, Common Carriers by Water—Status of Express Companies, Truck Lines and Other Non-Vessel Carriers, 6 FMB 245, "foisted upon the shipping industry and the shipping public an illogical and illegal concept of a common carrier by water that is unnecessary, untrue, and in its inevitable results unsavory". The Commission has no authority to make "common carriers by water" out of freight forwarders, express companies and truckers—persons who carry nothing at all by water. Therefore, the confusion caused by the old Board's fabrication of the false entity labeled nonvessel operating common carriers by water is not going to be corrected by fabricating new false theories of transportation law in an attempt to deal with its own creation. Nothing but further confusion can result and the Commission should admit the error in Docket 815, supra, and reverse that decision.

(3) The NVOCC's should not be permitted to become members of conferences because they are shippers and have no interest in protecting the equipment investment of vessel operators. Moreover, because of their peculiar characteristics, they should not be permitted to sign dual rate contracts with conference lines.

(4) Local port-to-port tariffs of the steamship conferences have been entirely satisfactory and appear to be so for the future. A breakdown of the port-to-port rate structures merely to accommodate NVOCC's through container traffic would achieve no real public benefit, would create chaos and destroy the conference system which must fix rates to protect carrier's equipment investment and to assure replacement and modernization of vessels.

Issues to be discussed. Is the NVOCC, like its counterparts, the Interstate Commerce Commission freight forwarder and the Civil Aeronautics Board indirect air carrier, providing a necessary or beneficial service in the ocean commerce transportation system; and does growth of NVOCC's in the last decade indicate a public need for an operation which focuses primarily on services to the smaller shipper?

Is there a flexibility in the NVOCC operation which permits the selection of the most efficient routes and means of transport from origin to destination and is this flexibility desirable and beneficial to the shipping public?

In Common Carriers By Water—Status of Non-Vessel Carriers, 6 FMB 245 (1961), the Federal Maritime Commission followed the concept that any person who offers to sell transportation to the general public will be treated as a common carrier. A question is whether the NVOCC is a shipper, not a carrier, when it tenders goods to an underlying carrier for transportation, although the NVOCC is a carrier to the shipping public and the shipper does not look beyond the NVOCC for remedy. Due to this dual characterization, is it necessary to promulgate rules and regulations, or seek amendments to the shipping acts which will recognize by definition the NVOCC's unique character and which will permit the NVOCC to operate to advantage but not disadvantage the equipment owning carriers with whom it must deal and depend upon for the carriage of its goods?

Other matters to be resolved are:

Should NVOCC's be licensed and bonded similar to the licensing and bonding requirements of independent ocean freight forwarders subject to the Federal Maritime Commission?

Is the NVOCC performing services to the small shipper which are not provided by equipment owning carriers?

Does the NVOCC generate business for the underlying water carrier, to the advantage of such carrier?

Does the NVOCC perform services for the underlying carrier which results in a saving to that carrier, and if so, should not that savings be reflected in the underlying carrier's rates?

Should the NVOCC be limited as to types of agreements with underlying carriers?

Should the NVOCC be required to inform the shipper by tariff identification that it is not an equipment operating carrier?

Should the NVOCC be required to state in its tariff all of the services it performs for a shipper and the charges for each service?

The Committee is interested in receiving comments and arguments on the above questions or other questions pertinent to this inquiry and in receiving any factual data which will assist in clarification of the position of the NVOCC in relation to the underlying carrier and the shipping public.

HERBERT K. GREER,
Chairman, Investigating Committee.

[F.R. Doc. 69-7191; Filed, June 17, 1969; 8:49 a.m.]

TRANS-ATLANTIC LAKES LINE-TACLINE

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, 1405 I Street NW., Room 1202; or may inspect agreement 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 20 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. Thomas K. Roche, Haight, Gardner, Poor & Havens, 80 Broad Street, New York, N.Y. 10004.

Agreement No. 9687-2, between the member lines of the Trans-Atlantic Lakes Line-Tacline agreement, modifies Clause c) of the basic agreement to provide that (1) each party shall participate in net profits or losses in accordance with such percentage proportions as the parties may from time to time agree upon, and (2) the parties will keep the Federal Maritime Commission currently informed as to participations and notice of any changes therein. The fixed percentage proportions established by the basic agreement are deleted.

Dated: June 13, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-7192; Filed, June 17, 1969; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP69-330]

COLORADO INTERSTATE GAS CO.

Notice of Application

JUNE 11, 1969.

Take notice that on June 5, 1969, Colorado Interstate Gas Co. (Applicant), a division of Colorado Interstate Corp., Post Office Box 1087, Colorado Springs, Colo. 80901, filed in Docket No. CP69-330 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7 of the regulations thereunder, for a certificate of public convenience and necessity authorizing the construction of miscellaneous gas sales and transportation facilities during a 12-month period beginning on July 22, 1969, and the operation of such facilities thereafter, all as more fully set forth in the application, which is on file with the Commission and open for public inspection.

Specifically, Applicant seeks authorization to construct not more than 15 new meter stations and mainline and lateral taps for existing resale customers and not more than five lateral pipelines with each line not to exceed 5 miles in length or 10 inches in diameter. The application states that the miscellaneous rearrangements to be constructed pursuant to the requested authorization will include not more than five relocations for highway construction, development of private property, or other similar projects and that such miscellaneous rearrangements to be constructed will not include pipe to exceed 26 inches in diameter with a maximum length of 1 mile.

The total estimated cost of Applicants' proposed construction is not to exceed $300,000, with the cost of any single new delivery point not to exceed $25,000, and the cost of any single lateral line not to exceed $50,000, and the cost of any single miscellaneous rearrangement not to exceed $50,000. Applicant proposes to finance the construction of facilities with current working funds on hand.

Any person wishing to become a party to make any protest with reference to said application should on or before July 9, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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 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 petition for leave to interven 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.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-7145; Filed, June 17, 1969; 8:45 a.m.]

[Docket No. CP69-22]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

JUNE 11, 1969.

Take notice that on June 6, 1969, El Paso Natural Gas Co. (Applicant) Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP69-22 a petition to amend the certificate of public convenience and necessity authorizing applicant to continue operation of facilities utilized for the sale and delivery of natural gas pursuant to fourteen (14) direct sale contracts between Applicant and twelve (12) purchasers. Applicant states that it inadvertently omitted from the application a contract between Applicant and Standard Oil Company of Texas, a division of Chevron Oil Company. Applicant petitions the Commission to amend the authorization so as to extend the continued operation of facilities necessary to accomplish the limited-term sale and delivery of natural gas to the Standard Oil Company of Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 9, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-7146; Filed, June 17, 1969; 8:45 a.m.]

[Docket No. CP69-204]

NORTHERN NATURAL GAS CO.

Notice of Amendment to Application

JUNE 11, 1969.

Take notice that on June 4, 1969, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP69-204 an amendmend to their application of January 29, 1969, in Docket No. CP69-204, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the sale and delivery of additional volumes of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant initially had proposed to construct 31 million cubic feet per day of additional mainline pipeline capacity and had proposed to increase the capacity from its Redfield Storage Field by 57 million cubic feet per day to provide 88,241 Mcf per day of winter period service for the 1969-70 heating season at an estimated cost of $9,645,000. By this amendment Applicant proposes to provide winter period service in a total amount of 92,449 Mcf per day from its Redfield Storage Field. For the 1969-70 winter service period Applicant proposes to utilize 25.6 million cubic feet daily of presently authorized unallocated mainline capacity to substitute for 25.6 million of contract demand service now being

supplied from Redfield. Thereafter, the mainline capacity will be available to provide additional contract demand service as required and Redfield Storage will be relied upon to provide both presently authorized contract demand service as well as the winter period service in its entirety. This method of providing for its customer's winter demands, states Applicant, eliminates the need to build the mainline facilities proposed originally. In its amendment Applicant proposes to build about 36.8 miles of branchline loop in Minnesota and Iowa, and install one 5,600 horsepower unit at Owatonna, Minn., at an estimated cost of $2,079,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 7, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-7147; Filed, June 17, 1969; 8:45 a.m.]

[Docket Nos. CP69-236, CP69-238]

WESTERN GAS INTERSTATE CO. AND SOUTHERN UNION GAS CO.

Notice of Applications

JUNE 11, 1969.

Take notice that on March 6, 1969, Western Gas Interstate Co. (Western), Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP69-236 an application pursuant to Executive Order No. 10485 for a permit authorizing the connection and maintenance at the international boundary between the United States and Mexico of facilities for the exportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Western states that on March 4, 1968, Southern Union Gas Co. (Southern) was issued in Docket No. CP68-70 a permit authorizing Southern to connect facilities at the international boundary of the United States for the exportation of natural gas to Mexico. The natural gas facilities covered by said permit are operated and maintained by Del Norte Natural Gas Co. under a lease, dated February 9, 1968. Del Norte utilizes these facilities to export gas to Mexico. Western states further that Southern has executed and delivered to Western a bill of sale and assignment conveying said facilities and lease to Western. The application indicates that the bill of sale and assignment will not become effective until Western has been granted a permit authorizing the connection and maintenances of said facilities at the international boundary. Accordingly, Western is requesting the Commission to issue to it such a permit.

Take further notice that on March 6, 1969, Southern, Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP69-238 an application to terminate the permit issued to it on March 4, 1968, in Docket No. CP68-70, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests that, after issuing the permit requested by Western, Southern's permit be terminated effective as of the effective date of the transfer to Western of facilities covered thereby.

Any person desiring to be hard or to make any protest with reference to said applications should on or before July 7, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-7148; Filed June 17, 1969; 8:45 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

ILLINOIS

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); Reorganization Plan No. 1 of 1958, Public Law 85-763, Public Law 87-296, and Public Law 90-608; by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; notice is hereby given of a declaration of "major disaster" by the President in his letter dated June 6, 1969, reading in part as follows:

I have determined that the situation in those areas of the State of Illinois adversely affected by flooding beginning on or about April 15, 1969, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81-875. I, therefore, declare that such a major disaster exists in Illinois.

I do hereby determine the following areas in the State of Illinois to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 6, 1969:

The counties of:

Adams.	Jo Daviess.
Calhoun.	Mercer.
Carroll.	Pike.
Hancock.	Rock Island.
Henderson.	Whiteside.
Jersey.	

Dated: June 11, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-7150; Filed, June 17, 1969; 8:45 a.m.]

IOWA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Iowa, dated May 1, 1969, and published May 9, 1969 (34 F.R. 7563), as amended, dated May 26, 1969, and published June 3, 1969 (34 F.R. 8729) is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 25, 1969:

Wapello.

Dated: June 11, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-7151; Filed, June 17, 1969; 8:45 a.m.]

MINNESOTA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Minnesota dated April 24, 1969, and published April 30, 1969 (34 F.R. 7095) is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 18, 1969:

Beltrami.	Fillmore.
Chisago.	Pennington.

Dated: June 11, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-7152; Filed, June 17, 1969; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7-3113—7-3123]

ASAMERA OIL CORP., LTD., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 10, 1969.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Asamera Oil Corp., Ltd.	7-3113
B.T.U. Engineering Corp.	7-3114
Barbara Lynn Stores, Inc.	7-3115
Bishop Industries, Inc.	7-3116
Chromalloy American Corp.	7-3117
Cluett, Peabody & Co.	7-3118
Computer Leasing Co.	7-3119
Continental Mortgage Investors	7-3120
Dome Petroleum, Ltd.	7-3121
Far West Financial Corp.	7-3122
Leasco Data Processing Equipment Corp	7-3123

Upon receipt of a request, on or before June 25, 1969, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7154; Filed, June 17, 1969; 8:45 a.m.]

[812-2468]

AURORA EQUITY FUND, INC.

Notice of Filing of Application for an Order Exempting Sale by Open-End Company of Its Shares at Other Than the Public Offering Price

JUNE 10, 1969.

Notice is hereby given that Aurora Equity Fund, Inc. ("Applicant"), 30 Wall Street, New York, N.Y. 10005, a Delaware corporation registered as an open end, nondiversified management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order exempting Applicant for a period of 65 days from the provisions of section 22(d) of the Act to the extent that section 22(d) prohibits Applicant from accepting initial subscriptions in amounts less than the $5,000 minimum initial investment specified in Applicant's prospectus.

Applicant represents that if an exemption is granted, a minimum initial investment of less than $5,000 would be available for the 65-day period only to present clients of Brokaw, Schaenen, Clancy & Co. ("Brokaw"), the parent of the investment adviser to the Applicant, whose accounts with Brokaw may be less than $5,000. Applicant represents that there would be no difference in the actual offering price per share to the public and the clients and that the purpose of an exemption is to enable Brokaw to "clear house" of several small accounts which cannot be administered economically by Brokaw and many of which are infants' accounts established by Brokaw's clients. Applicant represents that there are approximately 12 such accounts having an aggregate value of something less than $15,000.

Section 22(d) of the Act provides, in pertient part, that registered investment companies issuing redeemable securities may sell their shares only at the current public offering price as described in the prospectus.

Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that the proposed exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes and policies of the Act.

Notice is further given that any interested person may, not later than June 24, 1969, 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7155; Filed, June 17, 1969; 8:46 a.m.]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JUNE 10, 1969.

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, 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 June 11, 1969, through June 20, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7156; Filed, June 17, 1969; 8:46 a.m.]

[70-4716]

GENERAL PUBLIC UTILITIES CORP.

Notice of Post-Effective Amendment Regarding Cash Capital Contributions to Subsidiary Companies

JUNE 10, 1969.

Notice is hereby given that General Public Utilities Corp. ("GPU"), 80 Pine Street, New York, N.Y. 10005, a registered

holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated March 7, 1969 (Holding Company Act Release No. 16301), the Commission authorized GPU to make cash capital contributions, from time to time during 1969, to its subsidiary companies named below in amounts not in excess of those shown. GPU now proposes that said contributions be increased as follows:

	Original amounts	Proposed increase	New amounts
Metropolitan Edison Co.	$30,000,000	$5,000,000	$35,000,000
Jersey Central Power & Light Co.	23,000,000	----------	23,000,000
New Jersey Power & Light Co.	4,500,000	900,000	5,400,000
Pennsylvania Electric Co.	20,000,000	----------	20,000,000
Totals	77,500,000	5,900,000	83,400,000

The cash capital contributions will be utilized by the companies to finance their business as public-utility companies, including construction of new facilities and an increase of working capital.

Additional expenses to be incurred by GPU are estimated at $1,500, including legal fees not to exceed $1,000. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 24, 1969, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such requests, and the issues of fact or law raised by said amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended by said posteffective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the central rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7157; Filed, June 17, 1969; 8:46 a.m.]

[File No. 7-3126]

LEASCO DATA PROCESSING EQUIPMENT CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 10, 1969.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which security is listed and registered on one or more other national securities exchange:

Leasco Data Processing Equipment Corp., $2.20 cumulative convertible preferred stock, Series B—$1 par value, File No. 7-3126.

Upon receipt of a request, on or before June 25, 1969, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7158; Filed, June 17, 1969; 8:46 a.m.]

[File No. 7-3125]

LEASCO DATA PROCESSING EQUIPMENT CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 10, 1969.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading, privileges in the warrants to purchase common stock of the following company, which security is listed and registered on one or more other national securities exchanges:

Leasco Data Processing Equipment Corp., warrants series 1978, File No. 7-3125.

Upon receipt of a request, on or before June 25, 1969, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7159; Filed, June 17, 1969; 8:46 a.m.]

[File No. 7-3124]

LEASCO DATA PROCESSING EQUIPMENT CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 10, 1969.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase

common stock of the following company, which security is listed and registered on one or more other national securities exchanges:

Leasco Data Processing Equipment Corp., warrants series 1987, File No. 7-3124.

Upon receipt of a request, on or before June 25, 1969, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7160; Filed, June 17, 1969; 8:46 a.m.]

[Files Nos. 7-3127—7-3137]

LERNER STORES CORP., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 10, 1969.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securiites Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Lerner Stores Corp	7-3127
Marine Midland Corp	7-3128
Marlene Industries Corp	7-3129
Max Factor & Co	7-3130
Memorex Corp	7-3131
J. P. Morgan & Co., Inc	7-3132
Nytronics, Inc	7-3133
Pennzoil United, Inc	7-3134
Purex Corp., Ltd	7-3135
Realty Equities Corporation of New York	7-3136
Reliance Electric Co	7-3137

Upon receipt of a request, on or before June 25, 1969, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7161; Filed, June 17, 1969; 8:46 a.m.]

[File No. 7-3138]

ZAPATA NORNESS, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 10, 1969.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Zapata Norness, Inc., File No. 7-3138.

Upon receipt of a request, on or before June 25, 1969, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-7162; Filed, June 17, 1969; 8:46 a.m.]

[70-4760]

CONSOLIDATED NATURAL GAS CO.

Notice of Filing of Declaration Regarding Proposal To Issue and Sell Principal Amount of Debentures

JUNE 12, 1969.

Notice is hereby given that Consolidated Natural Gas Co. ("Consolidated"), a registered holding company, has filed with this Commission a declaration, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Consolidated proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $30 million principal amount of ____ percent debentures due July 1, 1994. The interest rate (which shall be a multiple of one-eight of 1 percent) and the price, exclusive of accrued interest (which will be not less than 99 percent nor more than 102 percent of the principal amount thereof) will be determined by the competitive bidding. The debentures will be issued as a new series under an Indenture dated as of July 1, 1967, and by a First Supplemental Indenture to be dated as of July 1, 1969, between Consolidated and Irving Trust Co., New York, N.Y., as trustee. The indenture, as supplemented, includes a prohibition until July 1, 1974, against refunding the issue with the proceeds of funds borrowed at a lower annual cost of money.

The proceeds from the sale of the debentures will be used to finance, in part, the 1969 construction program of Consolidated's subsidiary companies, presently estimated at $109 million.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $94,000, including printing expenses of $28,600, service charges of Consolidated Natural Gas Service Co., Inc., at cost of $27,500, trustee's charges of $11,000, and consulting geologists' fees and expenses of $10,000. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment.

It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 10, 1969, request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington D.C. 20549. A copy of such request should be served personally or

by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act; or the Commission may grant exemption from such rules and regulations as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-7176; Filed, June 17, 1969; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

OHIO SECURITY AND SMALL BUSINESS INVESTMENT CO.

Notice of License Surrender

Notice is hereby given that Ohio Security and Small Business Investment Co. (Ohio), 6218 St. Clair Street, Cleveland, Ohio 44103, has pursuant to § 107.105 of the regulations governing Small Business Investment Companies (13 CFR Part 107, 33 F.R. 326) surrendered its license to operate as a small business investment company.

Ohio was incorporated March 27, 1959, under the laws of the State of Ohio, and was licensed by the Small Business Administration to operate solely under the Small Business Investment Act of 1958, as amended (15 U.S.C., 661 et seq.).

Under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Ohio is hereby accepted and accordingly, all rights, privileges, and franchises derived therefrom have been canceled and terminated.

Dated June 9, 1969.

A. H. SINGER,
Associate Administrator for Investment.

[F.R. Doc. 69-7177; Filed, June 17, 1969; 8:48 a.m.]

SMALL BUSINESS INVESTMENT COMPANY OF PENNSYLVANIA

Notice of License Surrender

Notice is hereby given that The Small Business Investment Company of Pennsylvania (Pennsylvania), 1315 Walnut Street, Philadelphia, Pa. 19107, has pursuant to § 107.105 of the regulations governing Small Business Investment Companies (13 CFR Part 107, 33 F.R. 326) surrendered its license to operate as a small business investment company.

Pennsylvania was incorporated August 18, 1958, under the laws of the Commonwealth of Pennsylvania, and was licensed by the Small Business Administration (License No. 03/03-0002) to operate solely under the Small Business Investment Act of 1958, as amended (15 U.S.C., 661 et seq.).

Under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Pennsylvania is hereby accepted and accordingly, all rights, privileges, and franchises derived therefrom have been canceled and terminated as of June 3, 1969.

Dated: June 10, 1969.

A. H. SINGER,
Associate Administrator for Investment.

[F.R. Doc. 69-7178; Filed, June 17, 1969; 8:48 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 20 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR, Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates are as indicated below. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupation of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base period.

Amos Super Market, foodstore; 114 East Eighth Avenue, Homestead, Pa.; 4-14-69 to 4-13-70.

Andy's Model Market, foodstore; 1221 North Seventh, Harlingen, Tex.; 3-21-69 to 3-20-70.

Arne's Fairway, foodstore; 203 West Main, Ada, Minn.; 4-2-69 to 4-1-70.

Bethel Lutheran Home for Aged, nursing home; Williston, N. Dak.; 3-26-69 to 2-25-70.

Better Living Market, foodstores from 3-22-69 to 3-21-70: No. 2, Hattiesburg, Miss.; No. 3, Petal, Miss.

Black & White, Inc., department store; 236 South Main, Yazoo City, Miss.; 3-23-69 to 3-22-70.

Bladenboro Cash Store, Inc., foodstore; Main Street, Bladenboro, N.C.; 3-28-69 to 3-27-70.

L. T. Boswell, auto dealer; San Benito, Tex.; 3-22-69 to 3-21-70.

The Bottle Shoppe, liquor store; 8315 Hall Road, Utica, Mich.; 4-11-69 to 4-10-70.

Braeswood Pharmacy, Inc., drugstore; 2256 West Holcombe, Houston, Tex.; 4-17-69 to 4-16-70.

Paul Brower, agriculture; Holland, Mich.; 4-18-69 to 4-17-70.

Buchmaster's Market, Inc., foodstore; 343 West Grand Avenue, Decatur, Ill.; 4-1-69 to 3-31-70.

Buehler Markets, foodstore; 409 East Main Street, Streator, Ill.; 3-26-69 to 3-25-70.

Cattan's Food Market, foodstore; No. 2, Victoria, Tex.; 3-31-69 to 3-20-70.

Central Market, Inc., foodstore; 83 East Main Street, McConnellsville, Ohio; 3-23-69 to 3-22-70.

Central Park Super Market, foodstore; 5728 Avenue O, Birmingham, Ala.; 3-23-69 to 3-22-70.

Chamberlain Hospital & Home Association, hospital; Chamberlain, S. Dak.; 3-31-69 to 3-30-70.

Glenn W. Clay, agriculture; Carlisle, Ky.; 4-15-69 to 4-14-70.

Colby Super Market, Inc., foodstore; 200 North Franklin, Colby, Kans.; 3-24-69 to 3-23-70.

Columbia Shopping Center, foodstore; 1200 West Columbia, Evansville, Ind.; 3-22-69 to 3-21-70.

Community Memorial Hospital, hospital; Postsville, Iowa; 4-4-69 to 4-3-70.

Duckwall Stores Co., variety-department stores from 3-31-69 to 3-30-70 except as otherwise indicated: No. 70, Boulder, Colo.; Nos. 62, 64, 66, and 74, Colorado Springs, Colo.; No. 73, Commerce City, Colo.; Nos. 71 and 75, Denver, Colo.; No. 15, Fort Morgan, Colo.; No. 30, Longmont, Colo.; Nos. 65 and 76, Pueblo, Colo.; No. 1, Abilene, Kans.; No. 32, Colby, Kans.; No. 5, Concordia, Kans.; No. 11, Dodge City, Kans.; No. 12, Garden City, Kans.; No. 21, Goodland, Kans.; No. 7, Great Bend, Kans.; No. 17, Hays, Kans.; No. 59, Hutchinson, Kans.; No. 6, Junction City, Kans.; No. 18, Larned, Kans.; No. 14, Liberal, Kans.; No. 3, Manhattan, Kans. (3-31-69 to 1-31-70); No. 8, McPherson, Kans. (3-31-69 to 1-31-70); No. 19, Pratt, Kans.; No. 2, Salina, Kans. (3-31-69 to 1-31-70); No. 77, Salina, Kans.; No. 49, Topeka, Kans. (3-31-69 to 1-31-70); No. 52, Ulysses, Kans.; No. 33, Wichita, Kans.

Fant's Sunflower Food Store, foodstore; 100 West Claiborne Street, Greenwood, Miss.; 3-27-69 to 3-26-70.

Felsenthal's Department Store, department store; Brownsville, Tenn.; 3-24-69 to 3-23-70.

Field-Schlick, Inc., apparel store; 14 West Fifth Street, St. Paul, Minn.; 4-10-69 to 4-9-70.

Fleishman Co., department store; 115 South Main Street, Anderson, S.C.; 4-1-69 to 3-31-70.

Food Giant Super Markets, Inc., foodstore; No. 4, Tucson, Ariz.; 3-27-69 to 3-26-70.

J. H. Galley Florists, Inc., agriculture; 2244 Union Road, West Seneca, N.Y.; 4-17-69 to 4-16-70.

Gay Dolphin Gift Cove, gift shop; 910 North Ocean Boulevard, Myrtle Beach, S.C.; 4-4-69 to 3-15-70.

Goldblatt Brothers, Inc., department stores: 443-57 East 34th Street, Chicago, Ill., 4-3-69 to 4-2-70; 2430 North Harlem Avenue, Elmwood Park, Ill., 3-28-69 to 3-27-70.

Goudchaux's, department store; 1500 Main Street, Baton Rouge, La.; 4-3-69 to 4-2-70.

W. T. Grant Co., variety-department store; No. 522, Webster, Mass.; 3-21-69 to 3-20-70.

Grebe's Bakeries, Inc., bakery store; 601 West Mitchell, Milwaukee, Wis.; 4-13-69 to 4-12-70.

Hekkema Brothers, agriculture; 1131 Cadillic Drive, Muskegon, Mich.; 4-17-69 to 4-16-70.

Hellmans, Inc., variety store; 2202 Central Avenue, Kearney, Nebr.; 4-1-69 to 3-31-70.

Hermanson's Food Market, foodstore; 1415 Mount Rushmore Road, Rapid City, S. Dak.; 4-17-69 to 4-16-70.

T. D. Hubbard Co., foodstore; 111 Victoria Street, Kenedy, Tex.; 3-22-69 to 3-21-70.

Joe's Food Market, foodstore; Springfield, Ky.; 3-27-69 to 3-26-70.

Kaufman's, apparel store; 1040 Main Street, Wheeling, W. Va.; 4-1-69 to 3-31-70.

Kramer's Department Store, Inc., department store; 121 West Main Street, Wallace, N.C.; 3-23-69 to 1-31-70.

George F. Kremer Co., Inc., variety store; 323 First Avenue, West, Grand Rapids, Minn.; 4-3-69 to 4-2-70.

S. H. Kress and Co., variety-department stores from 4-1-69 to 3-31-70; 628 State Street, Bristol, Tenn.; 822 Market Street, Chattanooga, Tenn.

Kuhn Brothers Co., Inc., variety-department stores from 4-19-69 to 4-18-70 except as otherwise indicated: No. 26, Russellville, Ky.; No. 30, Tupelo, Miss. (4-15-69 to 4-14-70); No. 7, Clarksville, Tenn.; No. 16, Dickson, Tenn.; No. 17, Fayetteville, Tenn.; No. 51, Lexington, Tenn.; No. 45, Nashville, Tenn.; No. 25, Pulaski, Tenn.

Larkin Brothers, department store; Public Square, Loogootee, Ind.; 4-18-69 to 4-17-70.

League Ranch, agriculture; Benjamin, Tex.; 3-31-69 to 3-30-70.

Lerner Shops, apparel stores from 3-21-69 to 3-20-70: No. 260, Fairview Park, Ohio; No. 258, Hamilton, Ohio; No. 259, Marion, Ohio.

Louis Market, foodstore; 5718 Military, Omaha, Nebr.; 3-25-69 to 3-24-70.

Luce Pharmacy, drugstore; 218 West Main Street, Flushing, Mich.; 4-17-69 to 4-16-70.

MFA Central Cooperative, foodstore; Morgan and Lafayette Streets, Marshall, Mo.; 4-7-69 to 4-6-70.

McMaken's Market, Inc., foodstore; Route 311 and Arlington Road, Brookville, Ohio; 4-9-69 to 4-8-70.

Men's Quality Shop, Inc., apparel store; 24-30 East Broughton Street, Savannah, Ga.; 3-24-69 to 1-28-70.

Morgan & Lindsey, Inc., variety store; No. 3006, Mansfield, La.; 4-14-69 to 4-13-70.

G. C. Murphy Co., variety-department stores from 4-1-69 to 3-31-70 except as otherwise indicated: No. 204, Paintsville, Ky.; No. 176, Pikeville, Ky.; No. 220, Hancock, Md. (4-17-69 to 4-16-70); No. 210, Oakmont, Pa. (4-14-69 to 4-13-70); Nos. 198 and 241, Alexandria, Va.; No. 214, Arlington, Va.; No. 24, Newport News, Va.; Nos. 142, 208, and 245, Richmond, Va.; No. 132, Beckley, W. Va.; No. 50, Buckhannon, W. Va.; No. 171, Clarksburg, W. Va.; No. 15, Elkins, W. Va.; No. 22, Kayser, W. Va.; No. 42, Montgomery, W. Va.; No. 197, Morgantown, W. Va.; No. 18, Moundsville, W. Va.; No. 182, Mullens, W. Va.; No. 168, North Fork, W. Va.; No. 213, Oak Hill, W. Va.; No. 212, Parkersburg, W. Va.; No. 49, Piedmont, W. Va.; No. 62, Point Pleasant, W. Va.; No. 154, Princeton, W. Va.; No. 189, Shinnston, W. Va.; No. 207, South Charleston, W. Va.; No. 195, Spencer, W. Va.; Nos. 163 and 254, Weirton, W. Va.; No. 21, Weston, W. Va.; No. 33, Wheeling, W. Va.; No. 131, Williamson, W. Va.

Mutzabaughs Market, Inc., foodstore; Main Street and Bloomfield Road, Duncannon, Pa.; 3-26-69 to 3-25-70.

Neisner Brothers, Inc., variety-department store; No. 35, Chicago, Ill.; 4-18-69 to 4-17-70.

Neuman Food Store, foodstore; 1507 East Juan Linn, Victoria, Tex.; 3-31-69 to 3-30-70.

S. C. Orbach Co., apparel store; 1827 East 21st Street, Tulsa, Okla.; 3-26-69 to 3-25-70.

John B. Peters, agriculture; Gardners, Pa.; 4-18-69 to 4-17-70.

Pic N'Pay Supermarket, foodstore; 120 South Federal Highway, Dania, Fla.; 3-24-69 to 3-23-70.

Piggly Wiggly, foodstores: 501 West Main Street, Hartselle, Ala., 4-3-69 to 4-2-70; 200-204 Southwest Front Street, Walnut Ridge, Ark., 4-1-69 to 3-31-70; 110 North Pine, Vivian, La., 3-22-69 to 3-21-70; No. 37, Ridgeland, S.C., 3-25-69 to 3-24-70; 100-108 Richardson Avenue, Summerville, S.C., 4-8-69 to 4-7-70; No. 7, Jackson, Tenn., 3-21-69 to 3-20-70.

Pittston Hospital, hospital; Pittston, Pa.; 4-4-69 to 4-3-70.

Pleezing Variety Store of West Florida, Inc., variety store; 1980 North "T" Street, Pensacola, Fla.; 3-27-69 to 3-26-70.

Price-Black Farms, Inc., agriculture; Arrey, N. Mex.; 3-31-69 to 3-30-70.

QP Stores, Inc., foodstores; Sour Lake, Tex.; 4-2-69 to 4-1-70.

Quality Market, foodstore; Delta, Utah; 3-25-69 to 3-24-70.

Regan's Restaurant, restaurants from 3-31-69 to 3-30-70: 8031 Metcalf, Overland Park, Kans.; 95th and Nall, Overland Park, Kans.

Rex Hospital, hospital; 1311 St. Mary's Street, Raleigh, N.C.; 3-27-69 to 3-26-70.

Richards Brothers, foodstore; Mountain Grove, Mo.; 3-30-69 to 3-29-70.

Robinsons Co., department store; Osceola, Iowa; 3-27-69 to 3-26-70.

Rockford Standard Furniture Co., furniture store; 1100 11th Street, Rockford, Ill.; 4-1-69 to 3-31-70.

Rog & Scotty's Super Valu, foodstores from 3-22-69 to 3-21-70: Nos. 1, 2, and 3, Council Bluffs, Iowa.

Rogerson Restaurant, restaurant; 153 Main Avenue, East, Twin Falls, Idaho; 3-27-69 to 3-26-70.

Royal's, Inc., department store; 183 South Lake Avenue, Pahokee, Fla.; 3-28-69 to 3-27-70.

The Rudin Co., department store; 211 South Main Street, Mount Vernon, Ohio; 4-17-69 to 4-16-70.

St. Anthony's Hospital, hospital; Seventh and Friedman, Las Vegas, N. Mex.; 4-4-69 to 4-3-70.

St. Joseph Hospital, hospital; 321 East Alta Vista, Ottumwa, Iowa; 3-21-69 to 3-20-70.

St. Joseph's Hospital, hospital; 200-210 Michigan Street, Hancock, Mich.; 3-25-69 to 3-24-70.

Russell Lee Sell, agriculture; 12227 68th Avenue, Allendale, Mich.; 4-10-69 to 4-9-70.

San Rosario Hospital, hospital; 110 Canfield Street, Cambridge Springs, Pa.; 4-1-69 to 3-31-70.

Scotty's Food Store, foodstore; 930 Elm Street, Graham, Tex.; 3-25-69 to 3-24-70.

Shroat Markets, foodstore; 216 South D Street, Marion, Ind.; 4-9-69 to 4-8-70.

Sloan's Super-Save, foodstore; 108 West Wallace Street, San Saba, Tex.; 4-17-69 to 4-16-70.

Spies Supermarket, Inc., foodstores from 4-11-69 to 4-10-70; 521 Sixth Avenue, Brookings, S. Dak.; Watertown, S. Dak.

Star Clothes, apparel store; 5th Street and Greenup Avenue, Ashland, Ky.; 4-1-69 to 3-31-70.

Steer House, Inc., restaurant; 1119 Lisbon Street, Lewiston, Maine; 4-1-69 to 3-31-70.

Sterling Stores Co., Inc., variety store; 417 Cherry Street, Helena, Ark.; 3-27-69 to 3-26-70.

Sterns, Inc., department store; Madison Avenue and Water Street, Skowhegan, Maine; 4-9-69 to 4-8-70.

Stobie Shopping Center, foodstores from 4-15-69 to 4-14-70; No. 2, Plains, Mont.; No. 1, Thompson Falls, Mont.

Sutton's Food Mart, foodstore; 1313 West 21st Street, Topeka, Kans.; 4-2-69 to 4-1-70.

T. G. & Y. Stores Co., variety-department stores from 4-17-69 to 4-16-70 except as otherwise indicated: No. 190, Scottsdale, Ariz.; No. 41, Tulsa, Okla.; No. 251, Dallas, Tex.; No. 227, Port Arthur, Tex. (3-31-69 to 3-30-70); No. 124, Slaton, Tex. (4-10-69 to 4-9-70).

Taylor Pharmacy, drugstore; 2044 South Richey, Pasadena, Tex.; 3-24-69 to 3-23-70.

Tradewell Supermarket, foodstore; 1215 16th Street, Huntington, W. Va.; 4-3-69 to 4-2-70.

Tyler Brothers, foodstore; Wagener, S.C.; 3-27-69 to 3-26-70.

Valian's, Inc., restaurant; 6935 South Main, Houston, Tex.; 3-25-69 to 3-24-70.

P. E. Ward & Co., furniture and appliance store; Union Square, Dover-Foxcroft, Maine; 4-7-69 to 4-6-70.

J. Watercott & Co., department store; 500 Edward Street, Henry, Ill.; 3-28-69 to 3-27-70.

Weesies Brothers Farms, Inc., agriculture; 10126 Walsh Road, Montague, Mich.; 3-27-69 to 3-26-70.

Wood's 5 & 10¢ Stores, Inc., variety store; Laurinburg, N.C.; 4-1-69 to 3-31-70.

Woody's Super Market, foodstore; 104 Main Street, Wolfe City, Tex.; 3-29-69 to 3-28-70.

F. W. Woolworth Co., variety-department stores from 4-14-69 to 4-13-70 except as otherwise indicated: No. 775, Crookston, Minn.; No. 2136, West St. Paul, Minn.; No. 278, Kenosha, Wis.; No. 133, La Crosse, Wis. (4-10-69 to 4-9-70); No. 1744, Madison, Wis.

Zimmerman's Department Store, department store; 110 North Main Street, Salisbury, N.C.; 4-9-69 to 4-8-70.

The following certificates were issued to establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Arden-Mayfair, Inc., foodstores for the occupations of box clerk, courtesy clerk, 21 to 25 percent except as otherwise indicated, 4-1-69 to 3-31-70: 1760 East Santa Fe Avenue, Flagstaff, Ariz.; 5121 West Glendale Boulevard, Glendale, Ariz. (18 to 28 percent); 1422 East Main, Mesa, Ariz. (25 to 32 percent); 1018 West Main, Mesa, Ariz. (25 to 32 percent); 3115 North Third Avenue, Phoenix, Ariz.; 7830 North 12th Street, Phoenix, Ariz.; 5718 North 15th Avenue, Phoenix, Ariz.; 6025 North 27th Avenue, Phoenix, Ariz.; 1849 East Camelback Road, Phoenix, Ariz.; 3217 East Camelback Road, Phoenix, Ariz.; 5017 North Central Avenue, Phoenix, Ariz.; 6018 South Central Avenue, Phoenix, Ariz.; 3921 East Indian School Road, Phoenix, Ariz.; 5326 West Indian School Road, Phoenix, Ariz.; 2321 East McDowell Road,

Phoenix, Ariz.; 4430 East McDowell Road, Phoenix, Ariz.; 3717 East Thomas Road, Phoenix, Ariz.; 3442 West Van Buren, Phoenix, Ariz.; 326 West Indian School Road, Scottsdale, Ariz. (31 to 41 percent); 929 Mill Avenue, Tempe, Ariz. (22 to 28 percent); 6321 East 22nd Street, Tucson, Ariz. (14 to 27 percent); 3607 East Broadway, Tucson, Ariz. (14 to 27 percent); 5560 East Broadway, Tucson, Ariz. (14 to 27 percent); 1930 East Grant Road, Tucson, Ariz. (14 to 27 percent); 3360 East Speedway, Tucson, Ariz. (14 to 27 percent); 367 West 16th Street, Yuma, Ariz. (12 to 25 percent).

Arnold's Food Market, Inc., foodstore; 14 North Baltimore Avenue, Mount Holly Springs, Pa.; bagger; 6 to 8 percent; 4–13–69 to 4–12–70.

A. J. Bayless Markets, Inc., foodstore; No. 8, Phoenix, Ariz.; package clerk, service clerk; 22 percent; 3–28–69 to 1–31–70.

Bergemann's Market, foodstore; 802 North Spring, Beaver Dam, Wis.; carryout; 5 to 21 percent; 4–16–69 to 4–15–70.

Better Living Market, foodstores for the occupations of service clerk, stock clerk, cleanup, 3–22–69 to 3–21–70: No. 1, Hattiesburg, Miss., 15 to 21 percent; No. 5, Hattiesburg, Miss., 17 to 21 percent; No. 6, Picayune, Miss., 17 to 21 percent.

Big Bear Supermarket, foodstores for the occupation of courtesy clerk, 3–26–69 to 3–25–70: No. 25, Eden, N.C., 10 to 13 percent; No. 26, Greensboro, N.C., 11 to 14 percent; No. 27, High Point, N.C., 18 to 20 percent.

Big John, foodstore; No. 4, Flora, Ill.; stock clerk, sacker; 10 percent; 4–17–69 to 4–16–70.

Big Star, foodstore; No. 37, Memphis, Tenn.; sacker, carryout, bottle sorter; 17 to 28 percent; 3–23–69 to 3–22–70.

Bryn Mawr Home, Inc., nursing home; 275 Penn Avenue North, Minneapolis, Minn.; nurse's aide, tray boy (girl); 6 to 15 percent; 3–25–69 to 3–24–70.

Carter's IGA Foodliner, foodstore; 138 South Washington, Charlotte, Mich.; carryout, bagger, stock clerk, checker; 10 percent; 4–2–69 to 4–1–70.

Casey Drug and Jewelry Co., drugstore; Chamberlain, S. Dak.; clerk, fountain clerk, janitorial; 10 to 73 percent; 4–17–69 to 4–16–70.

City Market, Inc., foodstore; No. 14, Farmington, N. Mex.; caddy clerk; 10 percent; 4–15–69 to 4–14–70.

Cooper's, apparel stores: 79 Winrock Center, Albuquerque, N. Mex., salesclerk, gift wrapper, 5 to 15 percent, 3–24–69 to 3–23–70; 54 East San Francisco Street, Santa Fe, N. Mex., salesclerk, stock clerk, office clerk, gift wrapper, 5 to 18 percent, 4–14–69 to 4–13–70.

Crest Stores Co., variety store, Peachtree Plaza Shopping Center, Greer, S.C.; salesclerk, stock clerk; 10 to 45 percent, 4–1–69 to 3–31–70.

Edwin Cutler Co., apparel store; 70 North Main Street, Old Town, Maine; stock clerk, salesclerk; 5 to 13 percent; 4–9–69 to 4–8–70.

Derryberry's Drug Co., Inc., drugstore; 115 West Seventh Street, Columbia, Tenn.; salesclerk, stock clerk, office clerk; 10 percent; 3–25–68 to 3–24–70.

Dickson Furniture & Appliance Co., furniture and appliance store; 101 West Ellison Street, Burleson, Tex.; salesclerk, stock clerk, display clerk, inventory clerk, office clerk, janitorial; 9 to 20 percent; 3–28–69 to 3–27–70.

Dillon Companies, Inc., foodstore; No. 48, Hutchinson, Kans.; cashier, checker, carryout, wrapper, clerk, maintenance; 11 to 32 percent; 4–18–69 to 4–17–70.

Dowden Food Stores, Inc., foodstore; 411 Greenville Plaza, Greenville, Mich.; carryout, stock clerk; 15 to 27 percent; 4–18–69 to 4–17–70.

Duckwall Stores Co., variety-department stores for the occupations of salesclerk, stock clerk, 3–31–69 to 3–30–70: Nos. 98 and 100, Colorado Springs, Colo., 15 to 32 percent; No. 84, Denver, Colo., 20 to 44 percent; No. 88, Junction City, Kans., 20 to 44 percent; No. 86, Leavenworth, Kans., 16 to 28 percent; No. 97, Newton, Kans., 24 to 55 percent; No. 87, Topeka, Kans., 16 to 28 percent; No. 93, Wichita, Kans., 24 to 55 percent; No. 79, Winfield, Kans., 24 to 55 percent; No. 89, Albuquerque, N. Mex., 2 to 48 percent; No. 85, Clovis, N. Mex., 3 to 20 percent.

Durand IGA, foodstore; 219 North Saginaw, Durand, Mich.; carryout, bagger, checker, stock clerk; 10 percent; 4–2–69 to 4–1–70.

Easter Super Valu, foodstore; 209 North E Street, Oskaloosa, Iowa; stock clerk, bagger, carryout, cashier; 13 to 24 percent; 4–1–69 to 3–31–70.

Edge of the Ledge IGA Foodliner, foodstore; 512 South Clinton, Grand Ledge, Mich.; carryout, bagger, checker, stock clerk; 10 percent; 4–2–69 to 4–1–70.

Eldon's, foodstore; 351 North Sam Houston, San Benito, Tex.; stock clerk; 21 to 41 percent; 4–17–69 to 4–16–70.

Erspamer Super Market, foodstore; No. 521, Hurley, Wis.; carryout, stock clerk, cleanup; 7 to 14 percent; 4–16–69 to 4–15–70.

Escambia Drug Store, Inc., drugstore; 108 South Main Street, Atmore, Ala.; salesclerk, stock clerk, fountain clerk, delivery clerk, janitorial; 16 to 28 percent; 3–31–69 to 3–30–70.

Family Foodland, foodstore; 401 South Beechtree Street, Grand Haven, Mich.; carryout, cleanup, stock clerk; 21 to 35 percent; 4–11–69 to 4–10–70.

Farmers Discount Center, Inc., foodstore; 615 West Cherry, Chanute, Kans.; carryout, bottle clerk, sacker; 15 to 26 percent; 4–1–69 to 3–31–70.

Field-Schlick, Inc., department stores for the occupations of salesclerk, stock clerk, 1 to 6 percent, 4–10–69 to 4–9–70: Road B and Snelling Avenue, North, St. Paul, Minn.; 735 Cleveland Avenue, South, St. Paul, Minn.

Food Giant Super Market, Inc., foodstores for the occupation of carryout, 16 to 24 percent, 3–27–69 to 3–26–70: Nos. 6, 7, and 8, Tucson, Ariz.

Gee Bee, department stores for the occupations of salesclerk, stock clerk, cashier, wrapper, 0.2 to 3 percent, 3–27–69 to 3–26–70: Greensburg, Pa.; Johnstown, Pa.

Gerbes Super Markets, Inc., foodstores for the occupations of checker, cashier, carryout, wrapper, clerk, maintenance, 11 to 32 percent, 3–22–69 to 3–21–70: No. 309, Camdenton, Mo.; No. 311, Columbia, Mo.; No. 304, Eldon, Mo.; No. 308, Holden, Mo.; No. 312, Jefferson City, Mo.; No. 310, Pleasant Hill, Mo.; No. 301, Tipton, Mo.; No. 302, Versailles, Mo.; No. 303, Windsor, Mo.

Goldblatt Brothers, Inc., department store; McArthur and Outer Park Drive, Springfield, Ill.; salesclerk, stock clerk, office clerk, porter; 2 to 5 percent; 4–3–69 to 4–2–70.

W. T. Grant Co., variety-department stores for the occupations of office clerk, stock clerk, salesclerk, cashier except as otherwise indicated, 4–1–69 to 3–31–70 except as otherwise indicated: No. 1156, Downers Grove, Ill., 2 to 19 percent; No. 307, Salisbury, Md., 11 to 16 percent; No. 175, Kalamazoo, Mich., 3 to 22 percent (4–11–69 to 4–10–70); No. 1218, Medina, Ohio, 2 to 15 percent; No. 1022, Bloomsburg, Pa., 11 to 36 percent (salesclerk, stock clerk); No. 622, Sheboygan, Wis., 8 to 10 percent.

Autry Greer and Sons, Inc., foodstore; 911 South Wilson Avenue, Prichard, Ala.; bagger; 11 to 13 percent; 4–3–69 to 4–2–70.

H. E. B. Food Store, foodstore; No. 98, Brenham, Tex.; bottle clerk, package clerk, sacker; 10 percent; 4–9–69 to 4–8–70.

H & W Stop & Shop, foodstore; 600 Mulberry, Durant, Miss.; stock clerk, packager, sacker, cleanup; 11 to 15 percent; 4–15–69 to 4–14–70.

Haffner's 5¢ to 1.00 Store, variety store; No. 52, Kendallville, Ind.; salesclerk, stock clerk; 9 to 20 percent; 3–31–69 to 3–30–70.

Handy-Andy, Inc., foodstore; No. 30, San Antonio, Tex.; package clerk, stock clerk, checker, office cashier, bakery clerk, produce clerk, bottle sorter, dairy stock clerk, porter; 24 to 33 percent; 4–8–69 to 4–7–70.

Hardwick & Magee Co., furniture and carpet store; 650 West Lehigh Avenue, Philadelphia, Pa.; salesclerk; 3 to 9 percent; 3–28–69 to 3–27–70.

Heine Drugs, drugstore; 301 North Union, St. Louis, Mo.; clerk, delivery clerk; 7 percent; 4–9–69 to 4–8–70.

Jenny Lee Bakery, bakery store; Ingram and Fosters Avenues, Pittsburgh, Pa.; salesclerk; 16 to 22 percent; 3–27–69 to 3–26–70.

K–G Men's Stores, apparel stores for the occupations of stock clerk, sales clerk, office clerk, receiving clerk, delivery clerk, 9 to 22 percent, 4–1–69 to 3–31–70: 701 West Hampden Avenue, Englewood, Colo.; 10548 Melody Drive, Northglenn, Colo.

Kay Baum, Inc., apparel store; 22283–87 Michigan Avenue, Dearborn, Mich.; stock clerk; 4 to 21 percent; 4–1–69 to 3–31–70.

Kilroy's, apparel store; 119 West Broadway, Farmington, N. Mex.; salesclerk, stock clerk, office clerk, gift wrapper; 5 to 18 percent; 4–15–69 to 4–14–70.

Kings Drug, Inc., drugstore; 101 Lewisville Center, Lewisville, Tex.; salesclerk; 10 to 23 percent; 3–25–69 to 3–24–70.

S. H. Kress and Co., variety-department store; 1015 Randolph Road, Thomasville, N.C.; salesclerk, stock clerk; 9 to 46 percent; 4–17–69 to 4–16–70.

S. S. Kresge Co., variety-department stores: No. 4164, Birmingham, Ala., salesclerk, 3 to 11 percent, 4–4–69 to 4–3–70; No. 4187, Denver, Colo., salesclerk, stock clerk, office clerk, checker-cashier, 3 to 32 percent, 3–25–69 to 3–24–70; No. 4131, Englewood, Colo., stock clerk, salesclerk, checker-cashier, office clerk, 3 to 19 percent, 3–22–69 to 3–21–70; No. 4296, Hollywood, Fla., salesclerk, stock clerk, office clerk, checker-cashier, maintenance, 7 to 10 percent, 3–23–69 to 3–22–70; No. 4122, Pensacola, Fla., salesclerk, 1 to 10 percent, 3–22–69 to 3–21–70; No. 4198, Columbus, Ga., salesclerk, cashier, 11 to 22 percent, 4–3–69 to 4–2–70; No. 4620, East St. Louis, Ill., salesclerk, stock clerk, checker-cashier, office clerk, maintenance, 5 to 10 percent, 4–7–69 to 4–6–70; No. 4154, North Aurora, Ill., salesclerk, stock clerk, office clerk, 5 to 10 percent, 3–28–69 to 3–27–70; No. 4226, Evansville, Ind., salesclerk, 3 to 7 percent, 4–15–69 to 4–14–70; No. 4126, Omaha, Nebr., salesclerk, stock clerk, office clerk, checker-cashier, 3 to 10 percent, 4–4–69 to 4–3–70; No. 4258, Akron, Ohio, salesclerk, checker-cashier, stock clerk, maintenance, office clerk, 2 to 7 percent, 4–15–69 to 4–14–70; No. 4229, Austintown, Ohio, salesclerk, checker-cashier, stock clerk, maintenance, 10 percent, 4–1–69 to 3–31–70; No. 4167, Hamilton, Ohio, salesclerk, 7 to 22 percent, 4–5–69 to 4–4–70; No. 4257, Middleburg Heights, Ohio, salesclerk, stock clerk, checker-cashier, maintenance, 10 percent, 4–20–69 to 4–19–70; No. 4264, Stow, Ohio, checker-cashier, salesclerk, stock clerk, maintenance, 4 to 10 percent, 3–24–69 to 3–23–70.

Kuhn Brothers Co., Inc., variety-department stores for the occupations of salesclerk, stock clerk, office clerk, 4–19–69 to 4–18–70 except as otherwise indicated: No. 61, Athens, Ala., 0 to 17 percent (4–15–69 to 4–14–70); No. 60, Sheffield, Ala., 0 to 17 percent (4–13–69 to 4–12–70); No. 53, Hopkinsville, Ky., 11 to 59 percent; No. 55, Madisonville, Ky., 11 to 59 percent; No. 64, Murray, Ky., 1 to 18 percent (4–8–69 to 4–7–70); No. 43, Shelbyville, Ky., 11 to 59 percent; No. 57, Cookeville, Tenn., 11 to 21 percent; No. 42, Gallatin, Tenn., 11 to 21 percent; No. 35, Huntingdon, Tenn., 5 to 16 percent; No. 39,

Lenoir City, Tenn., 4 to 20 percent; Nos. 41 and 59, Nashville, Tenn., 11 to 21 percent; No. 56, Shelbyville, Tenn., 11 to 21 percent; No. 27, South Pittsburg, Tenn., 4 to 20 percent.

Lerner Shops, apparel stores for the occupations of salesclerk, cashier, credit clerk, 4-12-69 to 4-11-70 except as otherwise indicated: No. 35, Birmingham, Ala., 2 to 16 percent (4-19-69 to 4-18-70); No. 189, Huntsville, Ala., 2 to 21 percent (4-19-69 to 4-18-70); Nos. 93 and 112, Montgomery, Ala., 10 to 17 percent (4-19-69 to 4-18-70); No. 487, Englewood, Colo., 0 to 35 percent (4-17-69 to 4-16-70); No. 65, Clearwater, Fla., 1 to 32 percent; No. 139, Daytona Beach, Fla., 4 to 17 percent; Nos. 143 and 185, Fort Lauderdale, Fla., 13 to 27 percent; No. 184, Hollywood, Fla., 9 to 19 percent; Nos. 90 and 144, Jacksonville, Fla., 9 to 16 percent; Nos. 97 and 194, Jacksonville, Fla., 9 to 16 percent (4-19-69 to 4-18-70); No. 142, Lakeland, Fla., 8 to 28 percent (4-19-69 to 4-18-70); Nos. 60, 91, and 102, Miami, Fla., 2 to 14 percent (4-19-69 to 4-18-70); No. 66, Miami Beach, Fla., 2 to 14 percent (4-19-69 to 4-18-70); No. 147, Ocala, Fla., 1 to 25 percent (4-19-69 to 4-18-70); Nos. 122 and 181, Orlando, Fla., 10 to 24 percent (4-19-69 to 4-18-70); No. 71, Panama City, Fla., 2 to 19 percent; No. 136, Pensacola, Fla., 2 to 19 percent; Nos. 45 and 108, St. Petersburg, Fla., 4 to 18 percent; No. 44, Tallahassee, Fla., 7 to 24 percent; Nos. 95 and 141, West Palm Beach, Fla., 9 to 19 percent; No. 88, Augusta, Ga., 8 to 20 percent (4-19-69 to 4-18-70); No. 135, Columbus, Ga., 7 to 23 percent (3-28-69 to 3-27-70); No. 128, Macon, Ga., 8 to 19 percent (4-19-69 to 4-18-70); No. 114, Savannah, Ga., 1 to 23 percent (4-19-69 to 4-18-70); No. 340, Savannah, Ga., 1 to 23 percent (4-1-69 to 3-31-70); Nos. 218, 271 and 273, Indianapolis, Ind., 6 to 17 percent; No. 242, Lexington, Ky., 2 to 12 percent (4-19-69 to 4-18-70); Nos. 33 and 133, Baton Rouge, La., 2 to 20 percent (4-19-69 to 4-18-70); No. 49, Gretna, La., 2 to 19 percent (4-19-69 to 4-18-70); No. 126, Lake Charles, La., 2 to 19 percent (4-19-69 to 4-18-70); No. 119, Metairie, La., 2 to 19 percent (4-19-69 to 4-18-70); No. 109, New Orleans, La., 2 to 19 percent (4-19-69 to 4-18-70); Nos. 41, 55, and 57, Baltimore, Md., 27 to 38 percent (4-19-69 to 4-18-70); No. 73, Cumberland, Md., 13 to 52 percent (4-19-69 to 4-18-70); No. 43, Glen Burnie, Md., 27 to 38 percent (4-19-69 to 4-18-70); No. 232, St. Paul, Minn., 17 to 42 percent; No. 67, Gulfport, Miss., 5 to 21 percent (4-19-69 to 4-18-70); No. 145, Jackson, Miss., 1 to 12 percent (4-19-69 to 4-18-70); Nos. 420, 451, and 463, Albuquerque, N. Mex., 4 to 27 percent (4-19-69 to 4-18-70); No. 110, Durham, N.C., 4 to 19 percent; No. 92, Raleigh, N.C., 5 to 17 percent (4-19-69 to 4-18-70); No. 303, Columbus, Ohio, 3 to 10 percent (3-21-69 to 3-20-70); No. 312, Dayton, Ohio, 4 to 11 percent (3-21-69 to 3-20-70); No. 207, Maple Heights, Ohio, 7 to 12 percent; No. 214, Willowick, Ohio, 7 to 12 percent; No. 250, Youngstown, Ohio, 2 to 11 percent (4-19-69 to 4-18-70); Nos. 36 and 127, Oklahoma City, Okla., 1 to 12 percent; No. 216, East Liberty, Pa., 8 to 20 percent (4-19-69 to 4-18-70); No. 205, Harrisburg, Pa., 2 to 15 percent; No. 290, Monroeville, Pa., 0 to 20 percent (4-1-69 to 3-31-70); Nos. 222, 274, and 308, Pittsburgh, Pa., 8 to 20 percent (4-19-69 to 4-18-70); No. 85, Reading, Pa., 4 to 24 percent; No. 118, Scranton, Pa., 5 percent; No. 116, Charleston, S.C., 2 to 20 percent; No. 137, Columbia, S.C., 14 to 38 percent; No. 96, Greenville, S.C., 6 to 20 percent; No. 78, Spartanburg, S.C., 7 to 26 percent; No. 186, Chattanooga, Tenn., 1 to 16 percent; No. 213, Memphis, Tenn., 4 to 19 percent; No. 187, Pasadena, Tex., 0.3 to 4 percent; No. 34, San Antonio, Tex., 4 to 11 percent; No. 123, San Antonio, Tex., 4 to 19 percent (4-3-69 to 4-2-70); No. 68, Alexandria, Va., 6 to 15 percent; No. 87, Arlington, Va., 7 to 21 percent; No. 120, Newport News, Va., 11 to 20 percent; No. 32, Portsmouth, Va., 0 to 6 percent; No. 105, Roanoke, Va., 2 to 18 percent; No. 310, Virginia Beach, Va., 0 to 6 percent; No. 86, Charleston, W. Va., 3 to 12 percent; No. 81, Clarksburg, W. Va., 5 to 22 percent; No. 94, Huntington, W. Va., 0 to 26 percent.

Li'l General Stores, foodstore; 9120 Perry Hiway, Pittsburgh, Pa.; stock clerk, clerk; 11 to 25 percent; 4-1-69 to 3-31-70.

Lynn & Al's G. W. Foods, Inc., foodstore; 2602 Norfolk Avenue, Norfolk, Nebr.; cashier, stock clerk; 19 to 33 percent; 4-1-69 to 3-31-70.

May's Drug Store, drugstore; No. 202, Cedar Rapids, Iowa; salesclerk, stock clerk; 5 to 11 percent; 4-16-69 to 4-15-70.

McCrory-McLellan-Green Stores, variety-department stores for the occupations of salesclerk, stock clerk, office clerk except as otherwise indicated: No. 384, Sanford, Fla., 6 to 30 percent, 3-24-69 to 3-23-70; No. 368, Ormond Beach, Fla., 4 to 17 percent, 3-24-69 to 3-23-70; No. 266, 0 to 19 percent, 3-21-69 to 3-20-70 (salesclerk, stock clerk, office clerk, porter); No. 242, Springfield, Mass., 7 to 15 percent, 4-9-69 to 4-8-70; No. 352, Toms River, N.J., 14 to 29 percent, 4-1-69 to 3-31-70; No. 248, Albuquerque, N. Mex., 4 to 27 percent, 4-10-69 to 4-9-70 (salesclerk, stock clerk, office clerk, porter); No. 268, Kinston, N.C., 0.4 to 24 percent, 3-24-69 to 3-23-70; No. 399, Lima, Ohio, 6 to 20 percent, 4-10-69 to 4-9-70; No. 99, Homestead, Pa., 12 to 33 percent, 4-18-69 to 4-17-70; No. 110, Huntington, Pa., 2 to 16 percent, 4-11-69 to 4-10-70; No. 206, Westerly, R.I., 7 to 28 percent, 4-9-69 to 4-8-70.

McFarland's Fine Foods, foodstore; 116 South First, Osborne, Kans.; carryout; 8 to 32 percent; 4-14-69 to 4-13-70.

G. C. Murphy Co., variety-department stores for the occupations of salesclerk, stock clerk, office clerk, janitorial, 9 to 16 percent except as otherwise indicated, 4-1-69 to 3-31-70 except as otherwise indicated: No. 96, Jasper, Ala. (10 to 22 percent, 4-15-69 to 4-14-70); No. 303, Aliquippa, Pa. (3 to 18 percent, 3-21-69 to 3-20-70); No. 311, Altoona, Pa. (4 to 23 percent, 3-22-69 to 3-21-70); No. 321, Belle Vernon, Pa. (3 to 23 percent, 4-15-69 to 4-14-70); No. 295, Chattanooga, Tenn. (5 to 13 percent); No. 299, Nashville, Tenn. (5 to 13 percent); No. 316, San Antonio, Tex. (10 to 28 percent, 4-15-69 to 4-14-70); No. 308, Culpeper, Va.; No. 107, Danville, Va.; No. 278, Lynchburg, Va.; No. 63, Manassas, Va.; No. 240, Roanoke, Va.; No. 156, Woodbridge, Va. (13 to 23 percent).

S. C. Orbach Co. apparel stores for the occupations of salesclerk, stock clerk, gift wrapper, desk clerk, 8 to 65 percent, 3-26-69 to 3-25-70: 701 West Hampden, Englewood, Colo.; Tulsa, Okla.

Paul's Market, foodstores for the occupations of stock clerk, cleanup, bottle sorter, boxer, 2 to 12 percent, 4-14-69 to 4-13-70: Homedale, Idaho; Main Street, Meridian, Idaho.

Phil's Shoe Store, Inc., shoe store; 118 South Main Street, High Point, N.C.; salesclerk, stock clerk; 18 percent; 4-15-69 to 4-14-70.

Pic N'Pay Supermarket, Inc., foodstores for the occupations of stock clerk, bagger, 7 to 10 percent, 3-24-69 to 3-23-70: No. 2, North Miami Beach, Fla.; No. 3, Pompano Beach, Fla.

Piggly Wiggly, foodstores for the occupations of stock clerk, checker, sacker, clerk except as otherwise indicated, 10 percent except as otherwise indicated, 3-22-69 to 3-21-70 except as otherwise indicated: No. 24, Arkadelphia, Ark.; Nos. 15 and 16, Hot Springs, Ark.; Nos. 1 and 2, Minden, La.; 104 Mulberry, Durant, Miss. (stock clerk, packager, cleanup, 11 to 15 percent, 3-27-69 to 3-26-70); No. 38, Barnwell, S.C. (8 to 10 percent, 3-24-69 to 3-23-70); Sixth and Jefferson Streets, Sturgeon Bay, Wis. (carryout, sacker, 36 to 56 percent, 3-30-69 to 3-29-70).

Portland IGA Foodliner, foodstore; 228 Bridge Street, Portland, Mich.; carryout, bagger, checker, stock clerk; 10 percent; 4-2-69 to 4-1-70.

Randalls Food Market, foodstores for the occupations of stock clerk, carryout, 28 percent, 3-23-69 to 3-22-70 except as otherwise indicated: Nos. 1 and 2, Houston, Tex.; No. 3, Houston, Tex. (3-27-69 to 3-26-70).

Regan's Restaurant, restaurants for the occupation of bus boy (girl), 12 to 22 percent, 3-31-69 to 3-30-70: 6425 North Oak Trafficway, Gladstone, Mo.; 11124 Holmes, Kansas City, Mo.

Rockford IGA Foodliner, foodstore; 400 East Division, Rockford, Mich.; carryout, stock clerk; 15 to 27 percent; 4-16-69 to 4-15-70.

Rondavoo Market, foodstore; 223 11th Avenue, North, Nampa, Idaho; stock clerk, cleanup, bottle sorter, boxer; 2 to 12 percent; 4-14-69 to 4-13-70.

Rose's Stores, Inc., variety-department stores for the occupations of salesclerk, stock clerk, office clerk, checker except as otherwise indicated, 4-1-69 to 3-31-70 except as otherwise indicated: No. 182, Gainesville, Ga., 13 to 31 percent (salesclerk, stock clerk, checker, window trimmer, marker, order writer, 4-7-69 to 4-6-70); No. 180, Fayetteville, N.C., 10 to 25 percent (4-7-69 to 4-6-70); No. 5003, Gastonia, N.C., 11 to 27 percent; No. 5005, Greensboro, N.C., 11 to 28 percent; No. 5001, Winston-Salem, N.C., 19 to 31 percent.

Schensul's Cafeteria, Inc., restaurant; Eastland Mall, Flint, Mich.; bus boy (girl), coffee girl (boy), counter helper, dishwasher, food preparer, short order cook; 49 to 77 percent; 4-1-69 to 3-31-70.

Scott Stores, variety-department stores for the occupations of salesclerk, stock clerk, checker, 16 to 37 percent: No. 912, Freeport, Ill., 4-18-69 to 4-17-70; No. 87, Rock Falls, Ill., 3-27-69 to 3-26-70.

Gilbert Sheatzley, Inc., foodstore; 198 Main Street, Amelia, Ohio; cashier, stock clerk, bagger, cleanup; 14 to 29 percent; 4-4-69 to 4-3-70.

Sinbro's, department store; 105 South Center Street, Thomaston, Ga.; salesclerk; 5 to 7 percent; 3-27-69 to 3-26-70.

Sisco's 7-11 Bi Rite, foodstore; 1509 18th Avenue North, Nashville, Tenn.; sacker; 10 to 18 percent; 3-28-69 to 3-27-70.

Spies Super Valu, foodstores for the occupations of stock clerk, checker, cleanup, carryout, wrapper, 18 to 26 percent except as otherwise indicated, 4-11-69 to 4-10-70: Sixth Street and Breckenridge, Breckenridge, Minn. (18 to 22 percent); Ninth and Dakota Avenue, Wahpeton, N. Dak.; 205-09 North Van Epps, Madison, S. Dak.

Spurgeon's, department stores for the occupations of salesclerk, stock clerk, marker, receiving clerk, janitorial: 124 South Banker Street, Effingham, Ill., 8 to 15 percent, 4-15-69 to 4-14-70; Market Place Shopping Center, McHenry, Ill., 12 to 20 percent, 4-14-69 to 4-13-70.

Steak House, Inc., restaurant, Winthrop, Maine; dishwasher, prep-worker, waiter (waitress); 12 to 32 percent; 4-1-69 to 3-31-70.

Super Drive Ins., foodstores for the occupations of sacker, bottle clerk: No. 4, Clarksville, Tenn., 8 to 20 percent, 4-1-69 to 3-31-70; No. 6, Hermitage, Tenn., 21 to 32 percent, 4-15-69 to 4-14-70.

T. G. & Y. Stores Co., variety-department stores for the occupations of salesclerk, stock clerk, office clerk, except as otherwise indicated: No. 241, Mobile, Ala., 15 to 30 percent, 3-29-69 to 3-28-70 (salesclerk, stock clerk); Nos. 193, 194, and 195, Phoenix, Ariz., 26 to

30 percent, 4–17–69 to 4–16–70; No. 712, Texarkana, Ark., 11 to 34 percent, 4–13–69 to 4–12–70; No. 509, Sepulveda, Calif., 21 to 30 percent, 4–9–69 to 4–8–70; No. 98, Derby, Kans., 19 to 30 percent, 4–1–69 to 3–31–70; No. 313, Great Bend, Kans., 19 to 30 percent, 3–26–69 to 3–25–70; No. 133, Olathe, Kans., 21 to 30 percent, 4–2–69 to 4–1–70; No. 325, Overland Park, Kans., 15 to 29 percent, 4–2–69 to 4–1–70; No. 154, Shawnee Mission, Kans., 15 to 29 percent, 4–10–69 to 4–9–70; No. 97, Wichita, Kans., 19 to 30 percent, 4–1–69 to 3–31–70; No. 342, Jennings, La., 6 to 22 percent, 3–25–69 to 3–24–70; No. 745, Sulphur, La., 6 to 22 percent, 3–25–69 to 3–24–70; No. 463, Belton, Mo., 17 to 30 percent, 4–17–69 to 4–16–70; No. 198, Albuquerque, N. Mex., 13 to 23 percent, 4–2–69 to 4–1–70; No. 1902, Las Cruces, N. Mex., 13 to 24 percent, 4–17–69 to 4–16–70; Nos. 70 and 409, Norman, Okla., 8 to 22 percent, 4–17–69 to 4–16–70; No. 431, Oklahoma City, Okla., 18 to 30 percent, 3–24–69 to 3–23–70; Nos. 441 and 442, Oklahoma City, Okla., 18 to 30 percent, 3–23–69 to 3–22–70; No. 1006, Tulsa, Okla., 24 to 30 percent, 4–2–69 to 4–1–70; No. 1700, Charleston, S.C., 18 to 30 percent, 4–9–69 to 4–8–70; No. 244, Baytown, Tex., 30 percent, 4–13–69 to 4–12–70; No. 394, Baytown, Tex., 30 percent, 4–12–69 to 4–11–70; No. 837, Garland, Tex., 30 percent, 4–1–69 to 3–31–70; Nos. 343, 382, and 383, Houston, Tex., 30 percent, 4–12–69 to 4–11–70.

Walter Foods, Inc., foodstore; 2682 Westerville Road, Columbus, Ohio; stock clerk, carryout, cashier; 23 to 35 percent; 4–15–69 to 4–14–70.

Wood's 5 & 10¢ Stores, Inc., variety store; Siler City, N.C.; salesclerk, cashier, stock clerk; 9 to 34 percent; 4–14–69 to 4–13–70.

F. W. Woolworth Co., variety-department stores for the occupations of salesclerk, stock clerk except as otherwise indicated, 10 to 27 percent except as otherwise indicated, 4–10–69 to 4–9–70 except as otherwise indicated; No. 47, Minneapolis, Minn. (salesclerk, stock clerk, cashier, 6 to 11 percent); No. 72, Milwaukee, Wis. (salesclerk, stock clerk, cleanup, 4–14–69 to 4–13–70); No. 437, Milwaukee, Wis. (salesclerk, stock clerk, cashier, 4–14–69 to 4–13–70); Nos. 842 and 2446, Milwaukee, Wis.

Younker Brothers, Inc., department store; Fairway Shopping Center, Burlington, Iowa; stock clerk, office clerk, salesclerk, messenger, wrapper, marker, delivery clerk, cleanup, porter; 9 to 16 percent; 4–1–69 to 3–31–70.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within thirty days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 10th day of June 1969.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 69-7193; Filed, June 17, 1969; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 13, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41658—*Chlorine from Calvert, Ky.* Filed by O. W. South, Jr., agent (No. A6105), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Calvert, Ky., to Hine, Mo.

Grounds for relief—Market competition.

Tariff—Supplement 9 to Southern Freight Association, agent, tariff ICC S–838.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-7196; Filed, June 17, 1969; 8:49 a.m.]

[Notice 555]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 13, 1969.

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 3560 (Deviation No. 18), GENERAL EXPRESSWAYS, INC., 1205 South Platte River Drive, Denver, Colo. 80223, filed June 3, 1969. Carrier's representative: William E. Kenworthy, 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 junction U.S. Highway 41 and Interstate Highway 80, over Interstate Highway 80 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction U.S. Highway 30, 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 Chicago, Ill., over U.S. Highway 41 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction unnumbered highway, near Winona Lake, Ind., thence over unnumbered highway via Lorane to Columbia City, Ind., thence over unnumbered highway (formerly portion U.S. Highway 30) to junction U.S. Highway 30, thence over U.S. Highway 30 to Fort Wayne, Ind., and return over the same route.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Deviation No. 523), GREYHOUND LINES, INC. (Western Division), Market and Fremont Streets, San Francisco, Calif. 94106, filed May 29, 1969. Carrier's representative: W. L. McCracken, 371 Market Street, San Francisco, Calif. 94105. 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 junction Business Loop Interstate Highway 80 and Interstate Highway 80 (East Green River Junction, Wyo.) over Interstate Highway 80 to junction Business Loop Interstate Highway 80 (West Green River Junction), (2) from junction U.S. Highway 30N, unnumbered highway and Interstate Highway 80 (Granger Junction), over Interstate Highway 80 to junction unnumbered highway (Uintah-Sweetwater County line), (3) from junction Business Loop Interstate Highway 80 and Interstate Highway 80 (Lyman Junction) over Interstate Highway 80 to junction Business Loop Interstate Highway 80 (Fort Junction), and (4) from junction Business Loop Interstate Highway 80 and Interstate Highway 80 (East Evanston Junction) over Interstate Highway 80 to junction Business Loop Interstate Highway 80 (West Evanston Junction), 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 Rock Springs, Wyo., over Business Loop Interstate Highway 80 to junction Interstate Highway 80 (West Rock Springs Junction), thence over Interstate Highway 80 to junction Business Loop Interstate Highway 80 (East Green River Junction), thence over Business Loop Interstate Highway 80 to junction Interstate Highway 80 (West Green River Junction), thence over Interstate Highway 80 to junction unnumbered highway (Granger Junction), thence over unnumbered highway to junction Interstate Highway 80 (Uintah-Sweetwater County line), thence over Interstate Highway 80 to junction Business Loop Interstate Highway 80 (Lyman Junction), thence over Business Loop Interstate Highway 80 to junction Interstate Highway 80 (Fort Junction), thence over Interstate Highway 80 to junction Business Loop Interstate Highway 80 (East Evanston Junction), thence over Business Loop Interstate Highway 80 to junction Interstate Highway 80 (West Evanston Junction), thence over Interstate Highway 80 to the Wyoming-Utah State line (connects with Utah Route 2).

No. MC 1515 (Deviation No. 524) (Cancels Deviation No. 344), GREYHOUND LINES, INC. (Western Division), Market and Fremont Streets, San Francisco, Calif. 94106, filed June 6, 1969. Carrier's representative: W. L. McCracken, 371 Market Street, San Francisco, Calif. 94105. 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 junction unnumbered highway and Interstate Highway 5 (Blaine), over Interstate Highway 5 to junction unnumbered highway (Ferndale Road), (2) from Bellingham over Interstate Highway 5 to junction unnumbered highway north of Burlington (North Burlington Junction), (3) from Bellingham over Interstate Highway 5 to junction unnumbered highway, (4) from Alger over unnumbered highway to junction Interstate Highway 5 (Algar Junction), thence over Interstate Highway 5 to junction unnumbered highway north of Burlington (North Burlington Junction), (5) from Mount Vernon over unnumbered highway to junction Interstate Highway 5 (South Mount Vernon Junction), (6) from junction unnumbered and Interstate Highway 5 (South Marysville Junction), over Interstate Highway 5 to Seattle, (7) from junction unnumbered highway and Interstate Highway 5 (South Marysville Junction), over Interstate Highway 5 to Everett, and (8) from Everett over Interstate Highway 5 to Seattle, 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 the international boundary over Interstate Highway 5 to Blaine, Wash., thence over unnumbered highway to junction Interstate Highway 5 (Ferndale Road), thence over Interstate Highway 5 to Bellingham, Wash., thence over unnumbered highway to junction Interstate Highway 5 (North Burlington Junction), thence over Interstate Highway 5 to junction unnumbered highway (South Marysville Junction), thence over unnumbered highway to Seattle, Wash., and return over the same route.

By the Commission.

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

[F.R. Doc. 69-7197; Filed, June 17, 1969; 8:49 a.m.]

[Notice 1304]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 13, 1969.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

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 37896 (Sub-No. 19) (Republication), filed May 31, 1968, published in the FEDERAL REGISTER of June 20, 1968, and republished this issue. Applicant: YOUNGBLOOD TRUCK LINES, INC., Post Office Drawer 38, Fletcher, N.C. 28732. Applicant's representative: H. Charles Ephraim, 1411 K Street NW., Washington, D.C. 20005. In the above-entitled proceeding, as amended, the joint board recommended the granting to applicant of 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 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) between Atlanta, Ga., and Kernersville, N.C., from Atlanta over U.S. Highway 29 to Lexington, N.C. (also from Atlanta over Interstate Highway 85 to Lexington, N.C.), thence over U.S. Highway 52 to Winston-Salem, N.C., thence over North Carolina Highway 150 to Kernersville (also from Winston-Salem over Interstate Highway 40 to Kernersville), and return over the same routes, serving intermediate and off-route points as follows: (a) Intermediate and off-route points in Georgia within 25 miles of Atlanta except those south of U.S. Highways 29 and 41;

(b) All intermediate and off-route points in South Carolina, restricted to traffic moving to, from, or through Greenville, S.C., Greer, S.C., and points within 15 miles of Greer, S.C.; and (c) Wilmington, N.C., and all intermediate and off-route points in North Carolina on and west of U.S. Highway 1. A decision and order of the Commission Review Board No. 2, dated May 23, 1969, and served May 29, 1969, corrected June 6, 1969, and served June 12, 1969, as modified, finds that operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, 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) between Atlanta, Ga., and Kernersville, N.C., from Atlanta over U.S. Highway 29 to Lexington, N.C. (also from Atlanta over Interstate Highway 85 to Lexington, N.C.), thence over U.S. Highway 52 to Winston-Salem, N.C., thence over North Carolina Highway 150 to Kernersville (also from Winston-Salem over Interstate Highway 40 to Kernersville), and return over the same routes, serving all intermediate points, and serving as off-route points; (a) points in that part of Georgia on and between U.S. Highways 29 and 41 north of and within 25 miles of Atlanta; (b) all points in South Carolina; and (c) Wilmington, N.C., and all points in North Carolina on and west of U.S. Highway 1, subject to the condition as to (b) above, that service to such off-route points is restricted to the transportation of shipments from, to, or through Greenville, S.C., Greer, S.C., and points within 15 miles of Greer; 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 a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 108340 (Sub-No. 18) (Republication), filed October 28, 1968, published in the FEDERAL REGISTER issue of November 15, 1968, and republished this issue. Applicant: HANEY TRUCK LINE, a corporation, 2219 Cedar Street, Forest Grove, Oreg. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, Oreg. 97210. By application filed October 28, 1969, as amended, 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 cannery food processing plant and animal food processing plant,

products (except frozen fruits, frozen berries, frozen vegetables, and frozen fish), materials, supplies, and equipment. Between points in Washington County, Oreg. on the one hand, and, on the other, points in Washington. Restricted to shipments originating at or destined to canneries, food processing plants, and animal food processing plants; and, restricted to shipments originating at or destined to points in Washington County, Oreg. An order of the Commission, Operating Rights Board, dated April 30, 1969, and served May 22, 1969, 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) *canned goods, and canned pet feed*, and (2) *materials, supplies, and equipment* used in the production, sale, and distribution of the commodities in (1) above, between points in Washington County, Oreg. on the one hand, and, on the other, points in Washington, restricted to the transportation of traffic originating at or destined to points in Washington County, Oreg., 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 persons, who have relied upon the notice of the publication 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 a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 87720 (Sub-No. 83) (Notice of Filing of Petition for Modification of Permit by the Addition of a Shipper), filed May 15, 1969. Petitioner: BASS TRANSPORTATION CO., INC., Flemington, N.J. Petitioner's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Petitioner holds authority in MC 87720 Sub 83 to conduct operations as a motor contract carrier, transporting over irregular routes, reclaimed rubber and hard scrap pulverized, plastic pellets or granules and powder, plastic scrap, loose, in containers, and in bulk, and rubber (crude, natural, or synthetic), except in bulk, in tank vehicles: (A) between points in Essex, Union, Hudson, Bergen, Passaic, and Middlesex Counties, N.J., and New York, N.Y., on the one hand, and, on the other, points in Delaware, Maryland, that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line and extending along unnumbered highway (formerly portion U.S. Highway 111) through Shrewsbury and Jacobus, Pa., to junction Interstate Highway 83 (formerly portion U.S. Highway 111), thence along Interstate Highway 83 through York, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction Pennsylvania Highway 295 (formerly portion U.S. Highway 111), thence along Pennsylvania Highway 295 through Zions View and Strinestown, Pa., to junction Interstate Highway 83 (formerly portion U.S. Highway 111), thence along Interstate Highway 83 through Lemoyne, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction U.S. Highway 15, near Harrisburg, Pa., and thence along U.S. Highway 15 to the Pennsylvania-New York State line and the District of Columbia; and (B) between points in Bergen, Passaic, Essex, Hudson, Union, Middlesex, Monmouth, Morris, Somerset, Mercer, Hunterdon, Warren, and Sussex Counties, N.J., and New York, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, and New York. Restriction: The service authorized herein is limited to a transportation service to be performed, under a continuing contract, or contracts, with A. Schulman, Inc., of Akron, Ohio. By the instant petition, petitioner requests that it permit MC 87720 Sub 83 be modified, consistent with section 209(b) so as to authorize contract carrier service by the addition of Tenneco Chemicals, Inc., as a shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 109937 (Sub-No. 3) (Notice of Filing of Petition To Open Grandfather Proceeding at Docket MC-59552 for Purpose of Clarification of Such Authority Now Held by Petitioner), filed May 21, 1969. Petitioner: HARRY O. KLINE, doing business as H. O. KLINE TRANSFER CO., 305 East Hazeldale Avenue, East Minquidale, New Castle, Del. Petitioner's representative: Raymond A. Thistle, Jr., Suite 1710, 1500 Walnut Street, Philadelphia, Pa. 19102. Petitioner received the authority in question by a transfer application on August 1, 1950, at Docket MC-FC-51789, and was assigned certificate Docket MC-109937, Sub 3. The transfer to Petitioner was from W. F. Perdue, doing business as Perdue's Express, who had received the authority in question on March 28, 1942, at Docket MC-59552. Perdue had obtained the authority in question as a result of a "grandfather application" filed January 23, 1936. The authority in question (MC-109937, Sub 3) and the authority as it was held by applicant's predecessor as originally issued on March 28, 1942, reads as follows: *"General commodities*, except those of unusual value, and except dangerous explosives, liquor requiring special permit, household goods as defined in *Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467*, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points and places in Maryland on and east of a line extending from the Delaware-Maryland State line along U.S. Highway 13 to Salisbury, Md., thence along Maryland Highway 12 to Snow Hill, Md., and on and north of a line extending from Snow Hill, Md., to the Chincoteague Bay via Spence, Md., those south and west and within 5 miles of the highways specified, on the one hand, and, on the other, Wilmington, Del., Philadelphia, Pa., and points and places in that part of Delaware and Pennsylvania on and east of a line extending from Wilmington, Del., along U.S. Highway 202 to junction U.S. Highway 1, thence along U.S. Highway 1 to Philadelphia; from Philadelphia, Pa., and Wilmington, Del., and points and places in Delaware and Pennsylvania in the territory specified above, to points and places in Delaware on or within 5 miles of U.S. Highways 13 and 113 extending from Dover, Del., to the Delaware-Maryland State line, with no transportation for compensation on return except as otherwise authorized." By the instant petition, petitioner requests the Commission to open the grandfather proceeding of W. F. Perdue, doing business as Perdue's Express at Docket MC-59552 (which was the original issue of petitioner's certificate in question) which he acquired by transfer from Perdue, and clarify and declare that petitioner's authority at MC-109937, Sub 3, enables him, inter alia, to serve points in Delaware on or within 5 miles of the entire length of U.S. Highway 13 and particularly that portion of U.S. Highway 13 in the State of Delaware north of Dover, Del., to the Delaware-Pennsylvania State line. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

TRANSFER APPLICATIONS UNDER SECTION 212(b) WHICH HAVE BEEN DESIGNATED FOR ORAL HEARING

MC-FC-71221. Authority sought by transferee, Maynard C. Johnson, doing business as Whitie's Transportation Service, Siren, Wis. 54872, for transfer of the operating rights of Transferor, John J. Byers, doing business as Arrowhead Charter Bus Service, 1320 Minnesota Avenue, Duluth, Minn. 55802. Applicant's representative, John J. Keller, 145 West Wisconsin Avenue, Neenah, Wis. 54956. Operating rights in certificate No. MC-118853 sought to be transferred: Passengers and their baggage, in round-trip charter and special service, beginning and ending at points in St. Louis County, Minn., and extending to points in Michigan, North Dakota, South Dakota, and Wisconsin. By order entered May 7, 1969, the Commission, Division 3, vacated and set aside the order of April 1, 1969, approving the above-entitled transfer application under section 212(b) of the Interstate Commerce Act, and assigned the proceeding for hearing at a time and place to be fixed, for the purpose of determining whether full and

complete information relative to transferor's past operations was presented to the Commission to permit proper disposition of the application.

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

Finance Docket No. 25723. As part of the merger of the properties of the SOUTHERN PACIFIC COMPANY into SOUTHERN PACIFIC TRANSPORT COMPANY (Transport Company), a new corporation, and the acquisition by the latter of control of subsidiaries of the SOUTHERN PACIFIC COMPANY, including ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, the following acquisitions of control of motor carrier subsidiaries are proposed by TRANSPORT COMPANY: (1) Directly owned now by SOUTHERN PACIFIC COMPANY—(A) PACIFIC MOTOR TRUCKING COMPANY, 9 Main Street, San Francisco, Calif. 94105 and (B) SOUTHERN PACIFIC TRANSPORT COMPANY, 733 South Poydras Street, Dallas, Tex. 75202; and (2) Directly owned now by ST. LOUIS SOUTHWESTERN RAILWAY COMPANY—SOUTHWESTERN TRANSPORTATION COMPANY, 733 South Poydras Street, Dallas, Tex. 75202. Operating rights sought to be controlled: (1)(A) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Oregon, California, Arizona, Texas, Nevada, and New Mexico, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-78786 and Sub-numbers thereunder; *New automobiles, new trucks, and new buses*, in initial movements, in truckaway and driveaway service, as a *contract carrier*, over regular routes, between Los Angeles, Calif., and Calexico, Calif., between Los Angeles and San Ysidro, Calif., serving no intermediate points;

New automobiles, new trucks, and new buses, in initial movements, in truckaway and driveaway service, over irregular routes, from Raymer, Calif., to points in the Los Angeles Harbor commercial zone as defined by the Commission; *new automobiles and new trucks*, in initial movements, in truckaway and driveaway service, from the site of the General Motors Corp.'s plant at Fremont, Calif., to certain specified points in Nevada, with restrictions; from the site of General Motors Corp. assembly plant at South Gate, Calif., to points in the Los Angeles Harbor, Calif., commercial zone, as defined by the Commission, and to San Francisco, Calif., from the site of the General Motors Corp. assembly plant at Los Angeles, Calif., to San Francisco, Calif., from the site of the General Motors Corp. assembly plant at Fremont, Calif., to San Francisco, Calif., and to points in the Los Angeles Harbor, Calif., commercial zone, as defined by the Commission, with restrictions; *new passenger automobiles, new trucks, and new buses*, in truckaway and driveaway service, in secondary movements, from certain specified points in California, to points in California, and certain specified points in Nevada, with restrictions; and *new passenger automobiles, new trucks, and new buses*, in truckaway and driveaway service, in initial movements, from Los Angeles, Calif., to certain specified points in Nevada, with restrictions; (1)(B) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Texas and Louisiana, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-30319 and sub-numbers thereunder; and

(2) *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Dexter, Mo., and Malden, Mo., serving all intermediate points, between Malden, Mo., and Memphis, Tenn., serving the intermediate point of Blytheville, Ark., and certain off-route points, between Malden, Mo., and Jonesboro, Ark., serving all intermediate points between Jonesboro, Ark., and Memphis, Tenn., serving the intermediate point of Trumann, Ark., between Memphis, Tenn., and Texarkana, Tex., serving certain intermediate points, between Memphis, Tenn., and Texarkana, Tex., serving the intermediate points of Brinkley, Ark., and those between Brinkley and Texarkana, and the off-route point of Kedron, Ark., between Little Rock, Ark., and Gillett, Ark., between Stuttgart, Ark., and Hazen, Ark., serving all intermediate points, between Little Rock, Ark., and Pine Bluff, Ark., serving all intermediate points except those on U.S. Highway 65, between Little Rock, Ark., and Fordyce, Ark., serving no intermediate points, between Jonesboro, Ark., and Hickory Ridge, Ark., serving all intermediate points, between Paragould, Ark., and St. Louis, Mo., serving no intermediate points, between Lewisville, Ark., and Shreveport, La., serving all intermediate points, between Texarkana, Tex., and Shreveport, La., serving the intermediate point of Texarkana, Ark., between Texarkana, Ark., and Dallas, Tex., serving all intermediate points except those on U.S. Highway 67 between Greenville and Dallas, Tex., between Dallas, Tex., and Mount Pleasant, Tex., serving all intermediate points other than Wills Point, Tex., and those between Wills Point and Dallas, between Gladewater, Tex., and Shreveport, La., serving no intermediate points, between Tyler, Tex., and Waco, Tex., serving all intermediate points and the off-route point of Purdon, Tex., between Tyler, Tex., and Lufkin, Tex., between Brinkley, Ark., and Hickory Ridge, Ark., serving all intermediate points, between Pine Bluff, Ark., and Pine Bluff Municipal Airport, Ark., between Texarkana, Tex., and Red River Arsenal, Tex., serving no intermediate points; over two alternate routes for operating convenience only;

General commodities, except those of unusual value, livestock, loose bulk commodities, commodities requiring special equipment, and those injurious or contaminating to other lading, between Jonesboro, Ark., and Blytheville, Ark., serving intermediate points which are stations on the railroad of the St. Louis Southwestern Railway Co.; and *general commodities*, except automobiles, livestock, gasoline, and household goods as defined by the Commission, between Dallas, Tex., and Fort Worth, Tex., serving all intermediate points. This notice does not purport to be a complete description of all of the operating rights of the carriers involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of these carriers' operating rights, without stating in full, the entirety, thereof.

No. MC-F-10416 (AMENDMENT) (NATIONAL FREIGHT, INC.—Purchase—(Portion)—FAB TRANSPORTATION, INC.), published in the March 19, 1969, issue of the FEDERAL REGISTER on page 5411. By amendment filed June 6, 1969, applicants seek to purchase the *entire* authority of FAB TRANSPORTATION, INC.; in lieu of portion. Additional authority sought to be purchased: *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except such commodities in bulk), from the terminal of Fab Transportation, Inc., at Hoboken, N.J., and from Secaucus, Kearny, North Bergen, and Newark, N.J., to points in Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J., with restriction. This amendment is pursuant to order by Review Board No. 5, dated April 18, 1969. NOTE: Amendment application for temporary authority also has been filed.

No. MC-F-10502. Authority sought for control by RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver, Colo. 80216, of (1) UNITED-BUCKINGHAM FREIGHT LINES, INC., 5773 South Prince Street, Littleton, Colo. 80120, and its subsidiaries (2) NORWALK TRUCK LINES, INC., 5773 South Prince Street, Littleton, Colo. 80120, (3) NORWALK TRUCK LINES, INC., OF DELAWARE, 5773 South Prince Street, Littleton, Colo. 80120, and (4) MILLAR & BROWN, LTD., Cranbrook, British Columbia, Canada, and for acquisition by J. W. RINGSBY, 3201 Ringsby Court, Denver, Colo. 80216, of control of UNITED-BUCKINGHAM FREIGHT LINES, INC., NORWALK TRUCK LINES, INC., NORWALK TRUCK LINES, INC., OF DELAWARE, and MILLAR & BROWN, LTD., through the acquisition by RINGSBY

TRUCK LINES, INC. Applicants' attorneys and representative: Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago, Ill. 60603, George LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101, Joseph F. Mueller, 602 Midland Savings Building, Denver, Colo. 80202, and George A. Bangs, Box 350, Rapid City, S. Dak. 57701. Operating rights sought to be controlled: (1) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Montana, Minnesota, South Dakota, Nebraska, Iowa, Idaho, Wyoming, Colorado, Oregon, North Dakota, Utah, Texas, Wisconsin, Kansas, Oklahoma, Michigan, Indiana, Missouri, Washington, California, Illinois, and Wisconsin, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC–103435 and subnumbers thereunder;

(2) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to and between specified points in the States of Ohio, Illinois, Indiana, Michigan, Pennsylvania, Wisconsin, Missouri, Iowa, and New York, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC–71096 and subnumbers thereunder; (3) *general commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to and between specified points in the States of Pennsylvania, New York, Delaware, Ohio, Maryland, New Jersey, Connecticut, and the District of Columbia, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC–1638 and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carriers involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of these carriers' operating rights, without stating, in full, the entirety, thereof. (4) In pending Docket No. MC–133008, covering the transportation of general commodities, excepting, among others, household goods and commodities in bulk, as a common carrier, over irregular routes, between those ports of entry located on the international boundary line between the United States and Canada, at or near Blaine and Oroville, Wash., Porthill and Eastport, Idaho, Eureka and Sweet Grass, Mont., and Portal, Noyes, and Pembina, N. Dak. (This authority was granted pursuant to order by Operating Rights Board, dated November 29, 1969, and compliance not yet effected.) RINGSBY TRUCK LINES, INC., is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–10503. Authority sought for control by GOVAN EXPRESS, INC., Post Office Box 1545, Fort Worth, Tex. 76101, of DENTON PRODUCE, INC., Post Office Box 109, Enid, Okla. 73701, and for acquisition by GOVAN INC., 7505 John Carpenter Freeway, Dallas, Tex., of control of DENTON PRODUCE, INC., through the acquisition by GOVAN EXPRESS, INC. Applicants' attorney: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Operating rights sought to be controlled: *Bananas*, as a *common carrier*, over irregular routes, from Galveston, Tex., to Denver, Colo., Wichita Falls, Tex., and points in Nebraska, Kansas, and Oklahoma, from New Orleans, La., to Norfolk and Grand Island, Nebr., with restrictions; from Galveston, Tex., to Kansas City, Mo., and points in Texas, with restriction. GOVAN EXPRESS, INC., is authorized to operate as a *common carrier* in Oklahoma, Texas, and Louisiana. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10505. Authority sought to purchase by PUGET SOUND TRUCK LINES, INC., Pier 62, Seattle, Wash. 98101, of the operating rights of SOUTH BEND TRANSFER, INC., also of South Bend, Wash. 98586, and for acquisition by PUGET SOUND FREIGHT LINES, and in turn by, H. E. LOVEJOY, C. H. CARLANDER, G. W. FOSS, J. KNOX WOODRUFF, LEAH J. LOVEJOY, L. S. CARLANDER and R. G. JOSCELYN, all also of Seattle, Wash., of control of such rights through the purchase. Applicants' attorney: Clyde H. MacIver, 2112 Washington Building, Post Office Box 340, Seattle, Wash. Operating rights sought to be transferred: *General commodities*, excepting, among others, commodities in bulk, but not excepting, household goods, as a common carrier over regular routes, between South Bend, Wash., and Portland, Oreg., serving all intermediate points between South Bend and Pe Ell, Wash., including Pe Ell, Wash.; *general commodities*, with exceptions as above, over irregular routes, between points within 20 miles of South Bend, Wash.; *general commodities*, excepting among others, household goods and commodities in bulk, between Raymond and South Bend, Wash., on the one hand, and, on the other, points in Pacific County, Wash., between points within 3 miles of Raymond, Wash., including Raymond, Wash., between points within 3 miles of South Bend, Wash., including South Bend, Wash.; *household goods* as defined by the Commission, between points in Pacific County, Wash., on the one hand, and, on the other, certain specified points in Oregon, from points in Pacific County, Wash., to points in Washington County, Oreg., and those in that part of Multnomah and Clackamas Counties, Oreg., within 30 miles of Portland, Oreg., between points in Pacific County, Wash., between points in Pacific County, Wash., on the one hand, and, on the other, Centralia and Chehalis, Wash., and points in Oregon; *seed oysters*, during the oyster planting season, between South Bend, Wash., on the one hand, and, on the other, points in Oregon within 5 miles of the Pacific Ocean shore line. Vendee is authorized to operate as a *common carrier* in Washington, Oregon, and Idaho. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10506. Authority sought for purchase by FREDONIA EXPRESS, INC., Post Office Box 222, 320 Eagle Street, Fredonia, N.Y., of a portion of the operating rights of BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Norfolk, Va. 23502, and for acquisition by ANGELINE DeCEILIO, 320 Eagle Street, Fredonia, N.Y., of control of such rights through the purchase. Applicants' attorney: E. Stephen Heisley, 705 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Operating rights sought to be transferred: *Canned goods*, as a *common carrier* over irregular routes, from Cheriton and Hopeton, Va., points in Delaware, and points in Worcester, Wicomico, Somerset, Dorchester, Carolina, Talbot, and Queen Annes Counties, Md., to points in Pennsylvania, New Jersey, and New York. Vendee is authorized to operate as a *common carrier* in Massachusetts, Michigan, New York, New Jersey, Rhode Island, and Connecticut. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10507. Authority sought for control by RYDER SYSTEM, INC., 2701 South Bayshore Drive, Miami, Fla. 33133, of COMPLETE AUTO TRANSIT, INC., 18544 West Eight Mile Road, Southfield, Mich. 48075, and for acquisition by JAMES A. RYDER, RALPH B. RYDER, and ROLAND N. REEDY, all, also of Miami, Fla., of control of COMPLETE AUTO TRANSIT, INC., through the acquisition by RYDER SYSTEM, INC. Applicants' attorney: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Operating rights sought to be controlled: *New automobiles, new trucks, new bodies, and parts thereof*, restricted to initial movements, truckaway and driveaway, as a *contract carrier*, over irregular routes, from Flint, Mich., and St. Louis, Mo., to points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, and West Virginia, from Norwood, Ohio, to points in Arkansas, Illinois, Iowa, Michigan, Missouri, Pennsylvania, and Tennessee, from places of manufacture and assembly in Norwood and Cincinnati, Ohio, to points in Ohio, Indiana, Kentucky, and West Virginia; *new, used, unfinished or wrecked automobiles, trucks, bodies, and parts thereof* restricted to secondary movements in truckaway and driveaway service, between points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, and West Virginia, (with exceptions); *automobiles, trucks, chassis, bodies, cabs, all other automotive vehicles, unfinished automobiles, and automobile parts and accessories*, restricted to initial movements, from Flint, Mich., St. Louis, Mo., and Norwood, Ohio, to points in Kansas, Louisiana, Mississippi,

Nebraska, Oklahoma, Texas, and Wisconsin;

The commodities specified immediately above, restricted to secondary movements, between points in Kansas, Louisiana, Mississippi, Nebraska, Oklahoma, Texas, and Wisconsin, between points in Kansas, Louisiana, Mississippi, Nebraska, Oklahoma, Texas, and Wisconsin, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, and West Virginia; *automobiles and trucks*, finished or unfinished *chassis, bodies, and cabs*, restricted to initial movements, from Doraville, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and points in that part of Louisiana east of the Mississippi River; *new automobiles, new trucks, new chassis*, with or without seat cabs, and *automobile parts and equipment*, when shipped with automobiles or chassis, and *automobile show paraphernalia*, restricted to initial movements, from Atlanta, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and that part of Louisiana east of the Mississippi River; the commodities specified in the next two above, restricted to secondary movements, between points in Alabama, Florida, Georgia, Mississippi, Tennessee, North Carolina, South Carolina, and that part of Louisiana east of the Mississippi River (with exception); *trucks, chassis, bodies, cabs, and parts* thereof in driveaway service, in initial movements, from St. Louis, Mo., to points in Idaho, Montana, North Dakota, South Dakota, Minnesota, Wyoming, Nevada, Utah, Colorado, and New Mexico; *trucks, chassis, bodies, cabs, and parts* thereof in driveaway service, in secondary movements, between points in Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas, South Dakota, Tennessee, Utah, West Virginia, Wisconsin, and Wyoming;

Trucks and truck chassis, in initial movements, by the driveaway method, and *truck bodies and cabs*, from St. Louis, Mo., to points in Alabama, Georgia, Florida, North Carolina, and South Carolina, traversing Arkansas, Tennessee, Mississippi, Illinois, Indiana, and Kentucky for operating convenience only; *automobiles, trucks, and chassis*, in truckaway and driveaway service, in secondary movements, between points in Arkansas, Kentucky, Virginia, West Virginia, and those in Louisiana, west of the Mississippi River; *automobiles, trucks, and chassis*, in truckaway and driveaway service, in initial movements, and *automobile bodies and cabs, and automobile show paraphernalia*, when moving with automobile show display vehicle, from Doraville, Ga., to points in Arkansas, Kentucky, Virginia, West Virginia, and those in Louisiana west of the Mississippi River; *trucks, truck tractors, chassis, and parts and accessories therefor* when moving with vehicles, to which they are to be attached, in initial movements, in truckaway and driveaway service, from the sites of the plants of the General Motors Corp. at Willow Run, Washtenaw County, Mich., to points in the United States; *new automobiles and parts and accessories therefor* when moving with such vehicles, in initial movements, in truckaway and driveaway service, from the sites of the plants of General Motors Corp., at Willow Run, in Washtenaw County, Mich., to points in the United States (except Alaska and Hawaii), with restrictions; *trucks, chassis, bodies, cabs, and parts thereof*, in driveaway service, in initial movements, from Flint, Mich., to points in Alabama, Florida, Georgia, Idaho, Minnesota, Montana, North Carolina, North Dakota, South Carolina, South Dakota, Washington, and Wyoming, with restriction;

Automobiles, bodies, and parts thereof when moving with shipments of such vehicles, and *trucks, chassis, bodies, cabs, and parts thereof*, when moving with shipments of such vehicles, in initial movements, in truckaway service, from the plantsite of the Chevrolet Motor Division of the General Motors Corp., in St. Louis, Mo., to points in Alabama, Colorado, Idaho, New Mexico, Utah, and Wyoming, with restrictions; *automobiles, bodies, and parts thereof* when moving with shipments of such vehicles, and *trucks, chassis, bodies, cabs, and parts thereof* when moving with shipments of such vehicles, in initial movements, in truckaway and driveaway service, from the plantsite of the Chevrolet Motor Division of the General Motors Corp., in St. Louis, Mo., to points in Arizona, with restriction; *trucks, chassis, bodies, cabs, and parts thereof* when moving with shipments of such vehicles, in initial movements, in driveaway service, from the plantsite of the Chevrolet Motor Division of the General Motors Corp., in St. Louis, Mo., to points in Oregon and Washington, with restrictions; *automobiles and trucks*, in initial movements, in truckaway and driveaway service, *automobile bodies, truck bodies, and cabs, and automobile parts and truck parts*, when transported with the automobiles, trucks, bodies or cabs of which they are a part, from Atlanta, Ga., to points in Arkansas, Kentucky, Virginia, West Virginia, and points in Louisiana west of the Mississippi River, with restrictions; *automobiles, bodies, and parts thereof*, when moving with its vehicle or body, and *trucks, chassis, bodies, cabs, and parts thereof*, when moving with the truck, chassis, or body, in initial movements, in truckaway and driveaway service, from the plantsite of Chevrolet Motor Division of General Motors Corp., at Norwood, Ohio, to points in Alabama, Georgia, North Carolina, and South Carolina, with restrictions;

New automobiles, in initial movements, in driveaway and truckaway service, from the plantsite of the General Motors Corp. located at Doraville, Ga., to points in Indiana and Ohio, with restrictions; and *new automobiles and new trucks*, in initial movements, in driveaway and truckaway service, from the plantsite of the General Motors Corp. located at Norwood, Ohio, to points in Delaware, Maryland, New Jersey, New York, Virginia, and the District of Columbia, with restrictions. RYDER SYSTEM, INC., holds no authority from this Commission. However, its wholly owned subsidiary, M. & G. CONVOY, INC., 590 Elk Street, Post Office Box 218, Buffalo, N.Y., is authorized to operate as a *common carrier* in Michigan, Delaware, Maryland, New Jersey, Pennsylvania, Alabama, Indiana, Illinois, Kentucky, New York, Ohio, West Virginia, North Carolina, Virginia, Mississippi, Missouri, Tennessee, Wisconsin, Connecticut, Florida, Georgia, Maine, Minnesota, New Hampshire, Rhode Island, South Carolina, Vermont, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10508. Authority sought for purchase by LOUIS J. GARDELLA, INC., 111 Harbor Avenue, Norwalk, Conn. 14063, of a portion of the operating rights of ASA DUCKWORTH CO., INC., 311 Mount Pleasant Avenue, Newark, N.J., and for acquisition by LOUIS J. GARDELLA, also of Norwalk, Conn., of control of such rights through the purchase. Applicants' attorneys: Thomas W. Murrett, 410 Asylum Street, Hartford, Conn. 06103, Bernard F. Flynn, Jr., East Blackwell Street, Dover, N.J. 07801 and William Traub, 10 East 40th Street, New York, N.Y. 10016. Operating rights sought to be transferred: *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier* over irregular routes, between Newark, N.J., on the one hand, and, on the other, certain specified points in New Jersey. Vendee is authorized to operate as a *common carrier* in Massachusetts, Connecticut, New York, Rhode Island, New Jersey, Maryland, Maine, Rhode Island, New Hampshire, Illinois, Pennsylvania, Ohio, West Virginia, Virginia, Delaware, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC–F–10504. Authority sought to purchase by VALLEY TRANSIT COMPANY, INC., Post Office Box 1870, Harlingen, Tex. 78550, of a portion of the operating rights of PAN AMERICAN MOTOR, Post Office Box 1870, Harlingen, Tex. 78550, and for acquisition by V. D. RAIMOND, also of Harlingen, Tex., ROGERS KELLEY and J. C. LOONEY, both also of Post Office Box 390, Edinburg, Tex., of control of such rights through the purchase. Applicants' attorney: Edward G. Villalon, 1735 K Street NW., Washington, D.C. 20006. Operating rights sought to be transferred: *Passengers and their baggage, and newspapers, express and mail*, in the same vehicle with passengers, *as a common carrier* over regular routes, between San Benito, Tex., and the United States-Mexico Boundary line at or near Brownsville, Tex., serving all intermediate points, with restrictions: between Weslaco, Tex., and Las Flores, Tex., between Progreso and the boundary between the United States and Mexico, approximately 2 miles southeast of Progreso, serving all intermediate points, with restrictions; *passengers and their*

baggage, and express and newspapers, in the same vehicle with passengers, between Mercedes, Tex., and junction U.S. Highway 281 and Texas Farm Road 491, between Pharr, Tex., and the port of entry on the United States-Mexico boundary line located at or near Hidalgo, Tex., between junction U.S. Highway 281 and Spur U.S. Highway 281, and Progreso, Tex., between junction U.S. Highway 281, Spur U.S. Highway 281 and unnumbered highway, and port of entry on the United States-Mexico boundary line located approximately 2 miles south of junction U.S. Highway 281 and Spur U.S. Highway 281, between Brownsville, Tex., and South Padre Island, Tex., between junction Queen Isabela Causeway and unnumbered highway on Padre Island, Tex., and Cameron County Park Site No. 1 (Isla Blanca Park), between junction Padre Boulevard and unnumbered highway on Padre Island, Tex., and Cameron County Park Site No. 2 (Andy Bowie Park), between junction Padre Boulevard and unnumbered highway on Padre Island, Tex., and Cameron County Park Site No. 3, serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Texas. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 69-7198; Filed, June 17, 1969; 8:49 a.m.]

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