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Title 3—THE PRESIDENT

Proclamation 3952

NATIONAL BLOOD DONOR MONTH

By the President of the United States of America

A Proclamation

Genuine concern for his fellowman has always distinguished the American citizen. That concern finds daily expression in countless acts of voluntary service to the less fortunate, the sick, and the injured.

No manifestation of this generosity of spirit is more expressive, and no gift more priceless in time of personal crisis, than the donation of one's blood. The voluntary blood donor truly gives life itself.

Mobilized through the American Red Cross and the American Association of Blood Banks, and encouraged by modern medical techniques for simple and efficient collection and use of blood and its therapeutic components, the ranks of the voluntary blood donor have continued to grow and to make unparalleled contributions to the health of our people.

With the advent of the New Year, it is appropriate and timely to pay high tribute to our Nation's voluntary blood donors for their generosity and to encourage more people—both women and men, and both the younger and the older—to join their worthy ranks by providing a steady and increasing supply of blood during each month of the year ahead.

To this end, the Congress by Senate Joint Resolution 154 has requested the President to issue a proclamation designating the month of January 1970 as National Blood Donor Month.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the month of January 1970 as National Blood Donor Month. I call upon the public media, the blood-banking and medical and health facilities of our country, and the public at large to pay special tribute and honor during that month to the voluntary blood donor and to encourage, by all appropriate means, increasing numbers of people to be voluntary blood donors.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of December, in the year of our Lord nineteen hundred and sixty-nine, and of the Independence of the United States of America the one hundred and ninety-fourth.

Richard Nixon

[F.R. Doc. 69-15536; Filed, Dec. 31, 1969; 3:41 p.m.]

Determination of December 30, 1969

DETERMINATION PROVIDING FOR THE INTERIM ADMINISTRATION OF PROGRAMS AND ACTIVITIES UNDER TITLE IV OF THE FOREIGN ASSISTANCE ACT

By virtue of the authority vested in the President by Section 239(b) of Title IV of the Foreign Assistance Act of 1961, as amended (Section 105 of the Foreign Assistance Act of 1969, Public Law 91–175, approved December 30, 1969), it is hereby determined that the programs and activities provided for in such Title IV shall be administered by the Agency for International Development until such time as transfers are made to the Overseas Private Investment Corporation as provided for by such Section 239(b).

This determination shall be published in the FEDERAL REGISTER.

Richard Nixon

THE WHITE HOUSE,
December 30, 1969.

[F.R. Doc. 69–15537; Filed, Dec. 31, 1969; 4:19 p.m.]

Rules and Regulations

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Assateague Island National Seashore, Maryland and Virginia; Hunting

A proposal was published at page 15419 of the FEDERAL REGISTER of October 3, 1969, to add § 7.65 as new special regulation to Title 36 of the Code of Federal Regulations. The purpose of these proposed regulations is to implement the controls necessary to carry out the provisions of section 5, Public Law 89-195 with regard to hunting.

Interested persons were given 30 days for submitting written comments, suggestions, or objections with respect to the proposed additions. As a result of the comments received, the proposed regulations are adopted with the following changes: The limitation on methods of hunting in paragraph (a)(4) was revised to permit falconry as a result of numerous suggestions. Paragraph (a)(5) has also been revised to effect clarity and insure that for certain scientific purposes, Raptors may be taken. Paragraph (a)(8) was revised to allow hunters to leave a blind to shoot and retrieve crippled waterfowl. Paragraph (a)(13) was revised to include the mandatory registration of a hunter at the registration box on the trail he uses to enter the hunting area. Paragraph (a)(14) was revised to allow the Superintendent to determine the number of persons that can safely use a blind and effect better enforcement of the legal bag limit for each hunter.

These amendments will become effective 30 days after the publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3; 79 Stat. 824; 16 U.S.C. 459)

Section 7.65 is added as set forth below:

§ 7.65 Assateague Island National Seashore.

(a) *Hunting.* (1) Definition, firearm: The term firearm includes air and gas powered pistols and rifles, blow guns, bows and arrows or crossbows, and any other implements designed to discharge missiles in the air or under the water which are capable of destroying animal life.

(2) Those seashore lands open or closed to public hunting are designated on a map of the seashore which is available for inspection in the office of the Superintendent.

(3) The carrying of explosives or loaded firearms is prohibited in no-hunting, developed, and/or concentrated public-use areas and areas of scientific interest, as marked on the ground and designated on a map of the seashore, which is available for inspection in the office of the Superintendent.

(4) Hunting, except with a shotgun, bow and arrow, trapping or by falconry is prohibited. Hunting with a shotgun, bow and arrow, trap or by means of falconry is permitted in accordance with State Law and Federal Regulations in designated hunting areas.

(5) Hunting, trapping or taking of a Raptor for any purpose is prohibited except as provided for by permit in § 2.25 (a), (b), (c) and (d) of this chapter.

(6) Any nonhunting discharge of a firearm is prohibited.

(7) A hunter shall not enter upon Service-owned lands where a previous owner has retained use for hunting purposes, without written permission of such previous owner.

(8) Waterfowl shall be hunted only from numbered Service-owned blinds except in areas with retained hunting rights; and no firearm shall be discharged at waterfowl from outside of a blind unless the hunter is attempting to retrieve downed or crippled fowl.

(9) Waterfowl hunting blinds in public hunting areas shall be operated within two plans:

(i) First-come, first-served.

(ii) Advance written reservation.

The Superintendent shall determine the number and location of first-come, first-served and/or advance reservation blinds.

(10) In order to retain occupancy rights, the hunter must remain in or near the blind except for the purpose of retrieving waterfowl. The leaving of decoys or equipment for the purpose of holding occupancy is prohibited.

(11) Hunters shall not enter the public waterfowl hunting area more than 1 hour before legal shooting time and shall be out of the hunting area within 45 minutes after close of legal shooting time. The blind shall be left in a clean and sanitary condition.

(12) Hunters using Service-owned shore blinds shall enter and leave the public hunting area via designated routes from the island.

(13) Prior to entering and after leaving a public hunting blind, all hunters shall check in at the registration box located on the trail to the blind he is or has been using.

(14) Parties in blinds are limited to two hunters and two guns unless otherwise posted at the registration box for the blinds.

(15) The hunting of upland game shall not be conducted within 300 yards of any waterfowl hunting blind during waterfowl season.

B. C. ROBERTS,
Superintendent.

[F.R. Doc. 70-17; Filed, Jan. 2, 1970; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1001, Amdt. 1]

PART 1033—CAR SERVICE

St. Louis-San Francisco Railway Co. Authorized To Operate Over Tracks of Missouri Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 9th day of December 1969.

Upon further consideration of Service Order No. 1001 (33 F.R. 10864) and good cause appearing therefor:

It is ordered, That § 1033.1001 *Service Order No. 1001* (St. Louis-San Francisco Railway Co. authorized to operate over tracks of Missouri Pacific Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 15, 1969.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-65; Filed, Jan. 2, 1970; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

MISCELLANEOUS AMENDMENTS

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

PART 1—GENERAL PROVISIONS

1. Section 1.304–3 is revised; in § 1.701–1(a)(2), subdivisions (iv)(*h*) and (v)(*c*) are revised; paragraphs (c), (d), and (e) in § 1.903–1 are revised; and §§ 1.903–2(a)(2), 1.904–3(a), and 1.905–3(b) are revised, as follows:

§ 1.304–3 Purchase of patented items when Government is a licensee.

Award of a contract shall not be refused to a bidder/offeror merely because he is not the owner of or a licensee under any patent involved in the procurement. If, at the time a solicitation is issued, the Government is obligated to pay royalties applicable to the proposed procurement because of a preexisting license agreement between the Government and a patent owner, the solicitation shall so state and shall: (a) Identify the patents and specify the royalty rate; and (b) advise that an amount equal to the royalty which the Government will be required to pay under the license agreement will be added as an evaluation factor to each bid/offer unless the bidder/offeror includes in his bid/offer a statement that he is the owner of or a licensee under the patents. (See §§ 2.201(a)(2)(ix) and (4)(i) and (b)(16) and (28), and 3.501(b)(2)(xix), (4)(x), and (c)(44) of this chapter.

§ 1.701–1 Small business concern.

(a) * * *

(2) *Industry small business size standards.* * * *

(iv) *Service industries.* * * *

(*h*) *(1)* Any concern bidding on a contract for laundry services including linen supply, diaper services, and industrial laundering, is classified small if its average annual sales or receipts for its preceding 3 fiscal years do not exceed $3 million.

(2) Any concern bidding on a contract for cleaning and dyeing including rug cleaning services is classified small if its average annual sales or receipts for its preceding 3 fiscal years do not exceed $1 million.

* * * * *

(v) *Transportation industries.* * * *

(*c*) *Trucking (local and long distance), warehousing, packing and crating, and/or freight forwarding.* For trucking (local and long distance), warehousing, packing, and crating, and/or freight forwarding, the annual receipts of the concern and its affiliates must not exceed $5 million. No such concern, however, will be denied small business status for the purpose of Government procurement solely because of its contractual relationship with a large interstate van line if the concern's annual receipts have not exceeded $5 million during its most recently completed fiscal year.

* * * * *

§ 1.903–1 General standards.

* * * * *

(c) Have a satisfactory record of performance (contractors who are seriously deficient in current contract performance, when the number of contracts and the extent of deficiency of each are considered, shall, in the absence of evidence to the contrary or circumstances properly beyond the control of the contractor, be presumed to be unable to meet this requirement). Past unsatisfactory performance, due to failure to apply necessary tenacity or perseverance to do an acceptable job, shall be sufficient to justify a finding of nonresponsibility. (In the case of small business concerns, see §§ 1.705–4(c)(6) and 1.905–2 of this chapter);

(d) Have a satisfactory record of integrity (In the case of a small business concern, see § 1.705–4(c)(6).); and

(e) Be otherwise qualified and eligible to receive an award under applicable laws and regulations. e.g., Subpart F, Part 12 of this chapter. (In the case of a small business concern, see § 1.705–4(c)(5).).

§ 1.903–2 Additional standards.

(a) * * *

(2) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them. Where a prospective contractor proposes to use the facilities or equipment of another concern, not a subcontractor, or of his affiliate (see § 2.201(a)(2)(ii) and (b)(17) of this chapter), all existing business arrangements, firm or contingent, for the use of such facilities or equipment shall be considered in determining the ability of the prospective contractor to perform the contract; see also § 1.904–3.

* * * * *

§ 1.904–3 Affiliated concerns.

(a) Affiliated concerns (see § 2.201(a)(2)(ii) and (b)(17) of this chapter) shall be considered as separate entities in determining whether the one of them which is to perform the contract meets the applicable standards for a responsible prospective contractor (but see § 1.701–1 with respect to status as a small business concern).

* * * * *

§ 1.905–3 Sources of information.

* * * * *

(b) From the prospective contractor—including representation and other information contained in or attached to bids and proposals; replies to questionnaires financial data, such as balance sheets, profit and loss statements, cash forecasts, financial history of the contractor and affiliated concerns; current and past production records personnel records; and lists of tools, equipment, and facilities; written statements or commitments concerning financial assistance and subcontracting arrangements; and analyses of operational control procedures. Where it is considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition or for other reasons, prospective contractors may be required to submit affidavits concerning their ability to meet any of the minimum standards set forth in § 1.903, and company ownership and control (see § 2.201(a)(2)(ii) and (b)(17) of this chapter).

* * * * *

2. Sections 1.1702–3(b)(1)(i), 1.1902(c), 1.1903 (a) and (c)(2), and 1.1904 are revised, and § 1.1906 is revoked, as follows:

§ 1.1702–3 Use of incentive and program clauses.

* * * * *

(b) (1) * * *

(i) Cost-plus-a-fixed-fee and cost-plus-award-fee contracts;

* * * * *

§ 1.1902 General.

* * * * *

(c) Pending approval of the first article, acquisition of materials or components, or commencement of production is normally at the sole risk of the contractor. In such cases, the delivery schedule shall provide sufficient time for acquisition of materials and components, and production after notification of first article approval. When requirements necessitate a production delivery schedule which does not provide sufficient time for the contractor to perform on this basis, the contracting officer may prior to approval of the first article authorize the contractor to acquire specific materials or components or commence production to the extent essential to meet the production delivery schedule. Costs incurred based on such authorization are allocable to the contract prior to first article approval for purposes of progress payments, if progress payments are authorized by the contract, and termination settlements in the event the contract is terminated for the convenience of the Government. This authorization may be given to a contractor only after approval at a level higher than the contracting officer. When a need for this authorization is anticipated, the First Article Approval clause included in the solicitation (see § 1.1903(c)(2)) shall be modified as shown in § 7.104–55(c) of this chapter.

§ 1.1903 Fixed-price type contracts.

(a) The solicitation for a fixed-price type contract which is to contain a requirement for first article approval shall inform bidders or offerors that where supplies identical or similar to those called for have been previously furnished by the bidder or offeror and have been accepted by the Government, the requirement for first article approval may be waived by the Government. To permit proper evaluation of bids or offers where

one or more bidders or offerors may be eligible to have first article approval tests waived, the solicitation shall permit the submission of alternative bids or offers—one including first article approval tests and the other excluding such tests; shall state clearly the relationship of the first article to the contract quantity (see paragraph (e) of the contract clauses in § 7.104–55 of this chapter), and shall provide for:

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

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

(ii) May provide for a shorter delivery schedule where the first article approval is waived and earlier delivery is in the interest of the Government: *Provided,* That in the latter case any difference in delivery schedules resulting from a waiver of first article approval shall not be a factor in evaluation for award. Except as provided in § 1.1902(c), the delivery schedule based on first article approval shall provide sufficient time for acquisition of material and production after notification of first article approval. The delivery schedule for the first article itself shall be set forth in the First Article Approval clause;

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

(3) If the Government is to be responsible for first article testing, the cost to the Government of such testing shall be a factor in the evaluation of the bids and proposals to the extent that such cost can be realistically estimated. This estimate shall be documented in the contract file and clearly set forth in the solicitation as a factor which will be considered in evaluating the bids or proposals.

* * * * *

(c) The solicitation shall also:

* * * * *

(2) Include the applicable clause set forth in § 7.104–55 of this chapter, designating whether the contractor or the Government is responsible for first article approval testing—

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

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

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

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

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

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

§ 1.1904 Cost reimbursement type contracts.

When first article approval tests are required in cost-reimbursement type contracts, the applicable clause in § 7.104–55 of this chapter, appropriately modified, shall be included.

§ 1.1906 Contract clauses. [Revoked]

PART 2—PROCUREMENT BY FORMAL ADVERTISING

3. New § 2.200 is added, and § 2.201 is revised, as follows:

§ 2.200 Scope of subpart.

This subpart sets forth procedures for the solicitation of bids. Forms used in inviting bids are prescribed in Subparts A and D, Part 16 of this chapter. Invitations for bids shall contain the applicable information described in § 2.201 and any other information required for a particular procurement. All such information shall be set forth in full in the solicitation rather than incorporated by reference, except that:

(a) Standard forms consisting of general provisions (contract clauses) may be incorporated by reference to the form number, form name, and edition date; and

(b) Other general provisions authorized by Part 7 of this chapter may be incorporated by reference to the ASPR section number, clause title, and date of clause, in accordance with §7.001 of this chapter, except that the Equal Opportunity clauses in § 12.804 of this chapter shall be set forth in full where the resultant contract is expected to be $50,000 or more.

No other contract clauses shall be incorporated by reference. Pen and ink entries, deletions, or alterations shall not be made in an invitation for bids after it has been reproduced for issue to prospective bidders. If a change is necessary after reproduction of the invitation for bids, the Standard Form 30 (Amendment of Solicitation/Modification of Contract) shall be used (see § 16.101 of this chapter) except that its use for construction contracts is optional (see § 16.401–1(i) of this chapter).

§ 2.201 Preparation of Invitation for Bids.

(a) *Supply and services contracts.* For supply and services contracts, invitations for bids (Standard Form 33) shall contain the following information if applicable to the procurement involved. For construction contracts, see paragraph (b) of this section. Procurements of ship construction including shipbuilding, conversion, and repair; procurements for which special contract forms inconsistent herewith are prescribed by this subchapter, e.g., those prescribed by Subpart E, Part 16 of this chapter; and procurements of subsistence must contain all applicable items but such items need not be set forth in the Uniform Contract Format described below. The following subparagraphs are grouped so as to conform to the Uniform Contract Format (including the Table of Contents) set out below and prescribed in § 16.104–1 of this chapter. All items of information shall be set forth in the appropriate sections of the contract.

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(1) *Section A*—Cover Sheet (DD Form 1707, Information to Offerors).

(2) *Section B*—Contract form and Representations, Certifications, and Other Statements of Offeror.

(i) Standard Form 33 (Solicitation, Offer, and Award). Instructions for filling out this form are in §§ 16.104–1 and 16.104–2 of this chapter;

(ii) When considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition, such as improper kinds of multiple bidding, a requirement that each bidder submit with his bid an affidavit concerning his affiliation with other concerns. To accomplish the foregoing, the following clause shall be included in this section B. Failure to furnish such affidavit shall be treated as a minor informality or irregularity (see § 2.405).

AFFILIATED BIDDERS (JANUARY 1961)

(a) Business concerns are affiliates of each other when either directly or indirectly (i) one concern controls or has the power to control the other, or (ii) a third party controls or has the power to control both.

(b) Each bidder shall submit with his bid an affidavit containing information as follows:

(i) Whether the bidder has any affiliates;

(ii) The names and addresses of all affiliates of the bidder; and

(iii) The names and addresses of all persons and concerns exercising control or ownership of the bidder and any or all of his affiliates, and whether as common officers, directors, stockholders holding controlling interest, or otherwise.

Failure to furnish such an affidavit may result in rejection of the bid.

(iii) A statement as follows:

This procurement is not set aside for labor surplus area concerns. However, the bidder's status as such a concern may affect entitlement to award in case of tie bids or of bid evaluation in accordance with the Buy American clause of this solicitation. In order to have his entitlement to a preference determined if those circumstances should apply, the bidder must:

(i) Furnish with his bid evidence that he or his first-tier subcontractor is a certified concern in accordance with 29 CFR 8.7(b), and identify below the address in or near a "section of concentrated unemployment or underemployment," as classified by the Secretary of Labor, at which the costs he will incur on account of manufacturing or production (by himself if a certified concern or by certified concerns acting as first-tier subcontractors) amount to more than 25 percent of the contract price; or

(ii) Identify below the persistent or substantial labor surplus area in which the costs that he will incur on account of manufacturing or production (by himself or his first-tier subcontractors) amount to more than 50 percent of the contract price.

Failure to furnish evidence of certification by the Secretary of Labor if applicable, and to identify the locations as specified above will preclude consideration of the bidder as a labor surplus area concern. Bidder agrees that if, as a labor surplus area concern, he is awarded a contract for which he would not have qualified in the absence of such status, he will perform the contract or cause it to be performed, in accordance with the obligations which such status entails. (January 1969)

(iv) When need for the purpose of bid evaluation, preaward surveys, or inspection, a requirement that all bidders state the place (including the street address) from which the supplies will be furnished or where the services will be performed. Where it is reasonably anticipated that producing facilities will be used in the performance of the contracts, or where Government requires the information, bidders will be required to state (*a*) the full address of principal producing facilities (if designation of such address is not feasible, a full explanation will be required), and (*b*) names and addresses of owner and operator if other than bidder;

(v) If the contract is for the Military Assistance Program, the certificate set forth in § 6.703–3 of this chapter;

(vi) If the contract is pursuant to the Balance of Payments Program, the Certificate set forth in § 6.806–3 of this chapter;

(vii) Unless exempted by § 12.805 of this chapter from inclusion of the Equal Opportunity clause, the following provision:

Certification of Nonsegregated Facilities. (Applicable to contracts, subcontracts, and to agreements with applicants who are themselves performing federally assisted construction contracts, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause.) By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certification from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities. A certification of Nonsegregated Facilities, as required by the May 9, 1967, order on Elimination of Segregated Facilities, by the Secretary of Labor (32 F.R. 7439, May 19, 1967), must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). (March 1968)

(NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.)

(viii) Any requirement for prior testing and qualification of a product, when the item to be purchased is on a qualified products list (see Subpart K, Part 1 of this chapter);

(ix) When the contract is for the purchase of a patented item for which the Government is a licensee (§ 1.304–3 of this chapter), include a provision substantially as follows.

The Government is obligated to pay a royalty applicable to the proposed procurement because of a license agreement between the Government and the patent owner. The patent number is _____ and the royalty rate is _____. If the bidder is the owner of, or a licensee under the patent, he may so state in his bid, otherwise his bid will be evaluated by adding to his bid an amount equal to the royalty.

(x) When optional packing or packaging methods are permitted and when the bidder's shipping weights or dimensions will be a factor in evaluating transportation costs (see § 19.210 of this chapter), a provision substantially as follows:

Guaranteed Maximum Shipping Weights and Dimensions. Each bid (or proposal) will be evaluated to the destination specified by adding to the f.o.b. origin price all transportation costs to said destination. The guaranteed maximum shipping weights and dimensions of the supplies are required for determination of transportation costs. The bidder (or offeror) is requested to state as part of his offer the weights and dimensions. If separate containers are to be banded and/or skidded into a single shipping unit, details must be described. If delivered supplies exceed the guaranteed maximum shipping weights or dimensions, the contract price shall be reduced by an amount equal to the difference between the transportation costs computed for evaluation purposes based on bidder's (or offeror's) guaranteed maximum shipping weights or dimensions and the transportation costs that should have been used for bid (or proposal) evaluation purposes based on correct shipping data.

Item	Max. shpg. wt. per ctnr. (lbs.)	No. of items per ctnr.	Type of ctnr. (fiber, wood; box, bbl., etc.)	Size of ctnr. (in inches) (L x W x H)	Shpg. character (KD, set-up, nested, etc.)

If the bidder (or offeror) fails to state his guaranteed maximum shipping weight and dimensions for the supplies as requested, the Government will use the estimated weights and dimensions below for evaluation; and the Contractor agrees this will be the basis for any reduction in contract prices as provided in this clause. The Government's estimated weights (and dimensions, if applicable) are as follows:

(xi) When a solicitation may result in an f.o.b. origin contract and the item to be purchased is new to the supply system, nonstandard, or a modification of previously shipped item such that a different freight classification may apply (e.g., contains new materials, ingredients, changed weight, cube, configuration, etc.) (see § 19.202(b) of this chapter), a provision as follows:

FREIGHT CLASSIFICATION DESCRIPTION
(JUNE 1968)

Bidders (or offerors) are requested to indicate, below, the full Uniform Freight Classification (rail) description, or the National Motor Freight Classification description applicable to the supplies, the same as bidder (offeror) uses for commercial shipment. This description should include the packing of the commodity (box, crate, bundle, loose, setup, knocked down, compressed, unwrapped, etc.) the container material (fiberboard, wooden, etc.), unusual shipping dimensions, and other conditions affecting traffic descriptions. The Government will use these descriptions as well as other information available to it to determine the classification description most appropriate and advantageous to the Government. Bidder (offeror) understands that shipments on any f.o.b. origin contract awarded, as a result of this solicitation, will be made in conformity with the shipping classification description specified by the Government, which may be different from the classification description furnished below.

For freight classification purposes, bidder (or offeror) describes this commodity as

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(xii) When bids (or proposals) are to be solicited f.o.b. origin only and when it is desired that a bidder (offeror) be permitted to offer commercial transit credits (see § 19.206(b) of this chapter) a provision as follows:

TRANSPORTATION TRANSIT PRIVILEGE CREDITS
(JUNE 1968)

If the bidder (offeror) has established with regulated common carriers transit privileges which can be applied to the supplies when shipped from the original source, bidder (offeror) is invited to offer to utilize such credits to ship the supplies to the designated Government destinations under commercial bills of lading, paying all remaining transportation charges connected therewith, subject to reimbursement by the Government in an amount equal to the remaining charges but not exceeding the amount quoted by the bidder (offeror) below. Such shipments under paid commercial bills of lading will move

for the account of and at the risk of the Government, after loading on carrier's equipment and acceptance by the carrier (unless pursuant to the "Changes" clause, the office administering the contract directs use of Government bills of lading). The amount quoted below by the bidder (offeror) represents the transportation costs, in cents per 100 lb. (freight rate) for full carload/truckload shipments of the supplies from bidder's (offeror's) original source via his transit plant or point to the Government destination(s) listed below by the bidder (offeror), including the carrier's transit privilege, charge, less the applicable transit credit (i.e., the amount (rate) initially paid to the carrier for shipment from original source to bidder's transit plant or point). The rate per cwt. quoted will be used by the Government to evaluate the offered f.o.b. origin price unless a lower rate is applicable on the date of bid opening (or closing date specified for receipt of proposals). To have his bid (offer) evaluated on this basis, bidder (offeror) must insert below the remaining transportation charges which he agrees to pay, including any transit charges, and which are subject to reimbursement by the Government, as explained in this provision, to destinations listed in the Schedule as follows:

Rate per cwt. in cents _____.

To destination _____.

(xiii) When the contract is to include the clause in § 7.104–70 of this chapter and when it is believed that a prospective contractor is likely to include in his f.o.b. origin price a contingent amount to compensate for what may be for him an extremely unfavorable routing condition which the Government has the option to specify at the time of shipment (see § 19.208–2(b) of this chapter), a provision substantially as follows:

F.O.B. Origin (With Differentials). Notwithstanding the f.o.b. origin delivery terms set forth in the "F.O.B. Origin" clause of the contract, it may be advantageous to the bidder (or offeror) to submit f.o.b. origin prices in the Schedule which include only the lowest cost to the Contractor of loading for shipment at his plant or most favorable shipping point. The cost beyond such plant or point of bringing to the place of delivery and loading, blocking, and bracing on the type vehicle specified by the Government at the time of shipment may exceed the bidder's (offeror's) lowest cost when he ships for his own account. Accordingly, bidders (or offerors) may indicate below a differential which, as explained below, may be added to the offered price, such differential to be expressed as a rate in cents for each 100 pounds (cwt.) of the supplies for one or more of the options, under the clause entitled "F.O.B. Origin," which the Government may specify at the time of shipment. Such differential(s), if specified below, will be considered in the evaluation of bids (or proposals) to determine the lowest overall cost to the Government from the Contractor's shipping point to the destinations indicated in the Schedule. If, at the time of shipment, the Government specifies (normally on a Government bill of lading) a mode of transportation, type of vehicle, or place of delivery for which the bidder (or offeror) has set forth a differential, the Contractor shall include the total of such differential costs (the applicable differential multiplied by the actual weight on the Government bill of lading), as a separate reimbursable item on his invoice for the supplies. Under this clause (F.O.B. Orgin (With Differentials)), the Government shall have the option of performing or arranging at its own expense any transportation from Contractor's shipping plant or point to carrier's facility at the time of shipment and, whenever this option is exercised, no reimbursement shall be made by the Government based on a quoted differential. Bidders (or offeror's) differential(s), if any, in cents for each 100 pounds for optional mode of transportation, types of vehicle, transportation within a mode, or place of delivery, specified by the Government at the time of shipment, and not included in the f.o.b. origin price indicated in the Schedule by the bidder (or offeror), is (are) as follows:

_____

_____

(Carload, truckload, less-load, wharf, flatcar, driveway, etc.)

(xiv) When supplies are to be delivered outside of the United States and more than one U.S. port of loading meets the eligibility criteria applicable to the nature and quantity of the supplies for movement to the overseas destination (see §§ 19.208–1(b) and 19.213–1(d) of this chapter), a provision as follows:

EVALUATION OF EXPORT BIDS (OR PROPOSALS) (JUNE 1968)

A. *Port Handling and Ocean Charges.* In evaluating bids (or proposals), port handling and ocean charges on file and published by the Military Traffic Management and Terminal Service as of the date of bid opening (or the closing date specified for receipt of proposals) and effective for the date of the expected initial shipment will be used.

B. *F.O.B. Origin, Transportation Under Government Bill of Lading.*

(1) Bids (or proposals) will be evaluated and awards made on the basis of the lowest laid down cost to the Government at the overseas port of discharge, via methods and ports compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Included in this evaluation, in addition to the f.o.b. origin price of the item, will be the inland transportation costs from the point of origin in the United States, to the port of loading, port handling charges at the port of loading, and the ocean shipping costs from the U.S. port of loading to the overseas port of discharge (see D below). The Government may designate the mode of routing of shipment and may load from other than those ports specified for evaluation purposes.

(2) Bids (or proposals) will be evaluated on the basis of shipment through one of the ports set forth in paragraph D below, to the overseas port of discharge. Evaluation will be made on the basis of shipment through the port that will result in the lowest cost to the Government.

Ports of loading will be considered as destinations within the meaning of the term "f.o.b. destination" as that term is used in the "F.O.B. Origin" clause of this contract.

C. *F.O.B. Port of Loading With Inspection and Acceptance at Origin.*

(1) Bids (or proposals) will be evaluated on the basis of the lowest laid down cost to the Government at the overseas port of discharge via methods compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Included in this evaluation, in addition to the price to the U.S. port of loading (see (2) below), will be the port handling charges at the port of loading and the oceans shipping cost from the port of loading to the overseas port of discharge (see D below).

(2) Unless bids (or offers) are applicable only to f.o.b. origin delivery under Government bills of lading (see B above), bidders (or offerors) must designate, below, at least one of the ports of loading listed in paragraph D below, as their place of delivery. Failure to designate at least one of the ports as the point to which delivery will be made by the Contractor may render the bid (or offer) nonresponsive.

Place of delivery: _____

_____

(Insert at least one of the ports listed in paragraph D below.)

D. *Ports of Loading for Bid (or Proposal) Evaluation.* Ports to be used by the Government in evaluating bids (or proposals) are as follows:

_____

(Ports)

E. *Ports of Loading Nominated by Bidder (Offeror).* The abovenamed ports of loading listed in D above are considered by the Government to be appropriate for this solicitation due to their compatibility with methods and facilities required to handle the cargo and types of vessels and to meet the required overseas delivery dates. Notwithstanding the foregoing, bidders (or offerors) may nominate additional ports of loading which the bidder (offeror) considers to be more favorable to the Government. The Government may disregard such nominated port(s) if, after considering the quantity and nature of the supplies concerned, the requisite cargo handling capability, the available sailings on U.S.-Flag vessels, and other pertinent transportation factors, it determines that use of the nominated port(s) is not compatible with the required overseas delivery date. U.S. Great Lakes ports of loading may be considered in the evaluation of bids (or offers) only for those items scheduled herein for delivery during the ice-free or navigable period as proclaimed by the authorities of the St. Lawrence Seaway (normal period is between April 15 and November 30 annually). All ports named, including those nominated by bidders (or offerors), and determined to be eligible as provided herein, will be considered in evaluating all bids (or proposals) received in order to establish the lowest laid down cost to the Government at the overseas port of discharge. All determinations will be based on availability of ocean services by U.S.-Flag vessels only. Additional U.S. port(s) of loading nominated by bidder (or offeror), if any: _____.

Bidder (or offeror) will indicate whether price(s) is (are) based on:

☐ Paragraph B, f.o.b. origin, transportation by GBL to port listed in D;
☐ Paragraph C, f.o.b. destination (i.e., a port listed in D);
☐ Paragraph E, f.o.b. origin, transportation by GBL to port nominated in E; and/or
☐ Paragraph E, f.o.b. destination (i.e., a port nominated in E).

(3) Section C—Instructions, Conditions and Notices to Bidders.

(i) Standard Form 33A (Solicitation Instructions and Conditions);

(ii) Permission, if any, to submit telegraphic bids (see § 2.202–2);

(iii) Permission, if any, to submit alternate bids, including alternate materials or designs (see § 1.1207 of this chapter);

(iv) If no award will be made for less than the full quantities advertised, a statement to that effect;

(v) If award is to be made by specified groups of items or in the aggregate, a statement to that effect;

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

(vii) Directions for obtaining copies of any documents, such as plans, drawings, and specifications, which have been incorporated by reference (see § 1.1203 of this chapter);

(viii) Any applicable requirements for samples or descriptive literature (see §§ 2.202–4 and 2.202–5);

(ix) If the contract is to be conditioned on the availability of funds, include the clause in § 1.318 of this chapter;

(x) If required by § 12.808–2 of this chapter, the following notice of Preaward On Site Equal Opportunity Compliance Review:

PREAWARD ON SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW (JANUARY 1969)

In accordance with regulations of the Office of Federal Contract Compliance, 41 CFR 60.1, effective July 1, 1968, an award in the amount of $1 million or more will not be made under this solicitation unless the bidder and each of his known first-tier subcontractors (to whom he intends to award a subcontract of $1 million or more) are found on the basis of a compliance review, made within the six (6) month period next preceding the award, to be able to comply with the provisions of the Equal Opportunity clause of this solicitation.

(xi) If the contract involves performance of services on a Government installation, the following provision:

SITE VISIT (APRIL 1967)

Bidders are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for withdrawal of a bid after opening or for a claim after award of the contract.

(xii) If the contract is for multiyear procurement, the provisions required by § 1.322–2(c) of this chapter;

(xiii) In accordance with § 6.1104 of this chapter, the U.S.-owned foreign currency provision set forth therein;

(xiv) Any applicable Service Contract Act wage determinations of the Secretary of Labor (see Subpart J, Part 12 of this chapter);

(xv) When provision for progress payments is to be included in the invitation for bids, the notice in § 163.73–4 of this chapter and, if appropriate, the notice in § 163.73–3;

(xvi) Description of the procedures to be followed in obtaining permission to use Government production and research property (see Subparts D and E, Part 13 of this chapter);

(xvii) Invitations for bid which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 1.307 of this chapter) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a ☐ DX _____ rating; ☐ DO _____ rating; ☐ DMS allotment number _____ (Contracting Officer check appropriate box or boxes) in accordance with the provisions of BDSA Regulation 2 and/or DMS Regulation 1.

(xviii) When considered necessary by the contracting officer, a requirement that all bids must allow a period for acceptance by the Government of not less than a minimum period stipulated in the invitation for bids and that bids offering less than the minimum stipulated acceptance period will be rejected. The minimum period so stipulated should be no more than reasonably required for evaluation of bids and other preaward processing. To accomplish this, a paragraph substantially as follows shall be included in this section C of the invitation for bids:

BIDS—ACCEPTANCE PERIOD (APRIL 1960)

Bids offering less than _____ days for acceptance by the Government from the date set for opening of bids will be considered nonresponsive and will be rejected.

(xix) When the contract is to contain a first article approval clause, the statement required by § 1.1903 of this chapter;

(xx) Any applicable notices of small business or labor surplus area set-asides (see §§ 1.706–5, 1.706–6 and 1.804–2 of this chapter);

(xxi) The applicable small business size standard and product classification (see §§ 1.701 and 1.703 of this chapter);

(xxii) In accordance with § 1.1208 of this chapter, a provision concerning the use of former Government surplus property;

(xxiii) In accordance with § 1.1208 of this chapter, a provision concerning the use of new material;

(xxiv) If the procurement is by barter, the provision in § 4.503–5 of this chapter;

(xxv) Any offer by the Government to provide Government production and research property for the performance of the contract, and any special provisions relating thereto (see Subpart C, Part 13 of this chapter) (see, for example, § 13.202(b));

(xxvi) When clause § 7.104–62 of this chapter is included in the contract and Appendix I, Table 2, (§ 30.8 of this chapter) does not list addresses of the required special distribution recipients, the applicable names and addresses shall be included in this section C. The purchasing office issuing the contract shall include, referencing the line item as necessary, the addresses of the status control activity/inventory manager, and, if applicable, the processing purchasing office, cited in the Military Interdepartmental Purchase Request (MIPR).

(xxvii) The provision in § 1.1206–3(b) of this chapter when a "brand name or equal" item is being procured;

(xxviii) In unusual cases, where bidders are required to have special technical qualifications due to the complexity of the equipment being purchased or for some other special reason, a statement of such qualifications;

(xxix) The following statement:

The following provisions is to be substituted for subparagraph (b) of Clause 9, Discounts, on Standard Form 33A:

DISCOUNTS (JUNE 1968)

In connection with any discount offered, time will be computed from date of delivery of the supplies to carrier when acceptance is at the point of origin, or from date of delivery at destination or port of embarkation when delivery and acceptance are at either of these points, or from the date the correct invoice or voucher is received in the office specified by the Government, if the latter is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

(xxx) If the contract contains the Safety Precautions for Ammunition and Explosives clause prescribed by §§ 7.104–79, 7.204–49, 7.303–20, 7.403–24, 7.705–24, 7.902–29, and 7.1003–15 of this chapter, a statement (by reference to Departmental regulation or manual or otherwise) of the procedures to be followed in submitting accident or incident reports required by paragraph (e) of the clause;

(xxxi) When DD Form 1660, Management Control Systems Summary List (see §§ 1.331 and 16.827–4 of this chapter), and the clause in § 7.104–50 of this chapter are to be included in the solicitation, the following:

MANAGEMENT CONTROL SYSTEMS SUMMARY LIST (OCTOBER 1969)

Note the attachment to this solicitation of DD Form 1660, Management Control Systems Summary List, and the contract clause entitled "Management Control Systems Requirements."

(4) Section D—Evaluation Factors for Award.

(i) A statement of the exact basis upon which bids will be evaluated and award made, to include any Government costs or expenditures (other than bid prices) to be added or deducted, or any provisions for escalation as factors for evaluation. (The amount of any royalty payable under the royalty sharing provisions of a previously accepted value engineering change proposal incorporated in the solicitation will be considered in evaluating offers when the value engineering change is one of two or more acceptable alternatives under the solicitation.) See also § 1.304–3 of this chapter.

(ii) If the solicitation contains a price escalation clause, the following provision:

EVALUATION OF BIDS SUBJECT TO ESCALATION (APRIL 1969)

Notwithstanding the provisions of the clause entitled "Price Escalation," bids shall be evaluated on the basis of quoted prices without the allowable escalation being added. Bids which provide for a ceiling lower than that stipulated in the clause will also be evaluated on this basis. Bids which provide for escalation that may exceed the maximum escalation stipulated in the clause, or which limit or delete the downward escalation stipulated in the clause shall be rejected as nonresponsive.

(iii) When the contracting officer determines that it is necessary to consider the advantages or disadvantages to the Government that might result from making more than one award (multiple awards) (see § 2.407–5(c) of this chapter), a provision substantially as follows:

EVALUATION OF BIDS FOR MULTIPLE AWARDS (OCTOBER 1969)

In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of $50 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combinations of items which result in the lowest aggregate price to the Government, including such administrative costs.

(iv) Discount provisions (see § 2.407–3);

(v) When bids (or proposals) are to be solicited f.o.b. origin only and when requirement exists for transit arrangements at transit point(s) in the United States (excluding Alaska and Hawaii) (see § 19.206(a) of this chapter), a provision as follows:

TRANSIT ARRANGEMENTS (JUNE 1968)

The lowest appropriate common carrier transportation costs, including through transit rates and charges where applicable, from bidder's (or offeror's) shipping points, via the transit point, to the ultimate destination will be used in evaluating bids (or proposals).
Transit point(s) _____
Destination(s) _____

(vi) To establish the means the Government will use in f.o.b. origin solicitations in applying transportation costs for evaluation (see § 19.208–2(c) of this chapter), a provision substantially as follows (which may be modified to accommodate other methods of transportation):

Evaluation—F.O.B. Origin. Land methods of transportation by regulated common carrier are normal means of transportation used by the Government for shipment within the United States (excluding Alaska and

Hawaii). Accordingly, for the purpose of evaluating bids (or proposals), only such methods will be considered in establishing the cost of transportation between bidder's (or offeror's) shipping point and destination (tentative or firm, whichever is applicable), in the United States (excluding Alaska and Hawaii). Such transportation cost will be added to the bid (or proposal) price in determining the overall cost of the supplies to the Government. When tentative destinations are indicated, they will be used only for evaluation purposes, the Government having the right to utilize any other means of transportation or any other destination at the time of shipment.

(vii) When the exact destination is not known (see § 19.208–4(a) of this chapter), a provision as follows:

DESTINATION UNKNOWN (JUNE 1968)

For the purpose of evaluating bids (or proposals), and for no other purpose, the final destination(s) for the supplies will be considered to be as follows:

(viii) When the exact destination is not known (see § 19.208–4(a)), or when f.o.b. origin contracts may result (see § 19.209 of this chapter), a provision as follows:

F.O.B. ORIGIN—CARLOAD AND TRUCKLOAD SHIPMENTS (JUNE 1968)

The Contractor agrees that shipment shall be made in carload or truckload lots when the quantity to be delivered to any one destination in any delivery period pursuant to the contract schedule of deliveries is sufficient to constitute a carload or truckload shipment, except as may otherwise be permitted or directed, in writing, by the Contracting Officer. For bid (or proposal) evaluation purposes, the agreed weight of a carload or truckload will be the highest applicable minimum weight which will result in the lowest freight rate (or per car charge) on file or published in common carrier tariffs or tenders as of the date of bid opening (or the closing date specified for receipt of proposals. For purposes of actual delivery, the agreed weight of a carload or truckload will be the highest applicable minimum weight which will result in the lowest freight rate (or per car charge) on file or published as of date of shipment. If the total weight of any scheduled quantity to a destination is less than the highest carload/truckload minimum weight used for bid (or proposal) evaluation, the Contractor agrees to ship such scheduled quantity in one shipment. The Contractor shall be liable to the Government for any increased costs to the Government resulting from failure to comply with the above requirements.

(ix) When the supplies may be purchased f.o.b. origin (see § 19.212 of this chapter), a provision as follows:

SHIPPING POINTS(S) USED IN EVALUATION OF F.O.B. ORIGIN BIDS (OR PROPOSALS) (JUNE 1968)

A. If more than one shipping point or plant is designated by the bidder (or offeror) and he fails to indicate the quantity per shipping point or plant prior to bid opening (or the closing date specified for receipt of proposals), the Government will evaluate the bid (or proposal) on the basis of delivery of the entire quantity from the point or plant where cost of transportation is most favorable to the Government.

B. If the bidder (or offeror), prior to bid opening (or the closing date specified for receipt of proposals), fails to indicate any shipping point or plant, the Government will evaluate the bid (or proposal) on the basis of delivery from the plant at which the contract will be performed, as indicated in the bid or proposal. If no such plant is indicated in the bid (or proposal), then the bid (or proposal) will be evaluated on the basis of delivery from the Contractor's business address indicated on Standard Form 33 or other bid (proposal) form.

C. If the bidder (or offeror) utilizes a shipping point other than that which has been used by the Government as a basis for the evaluation of bids (or proposals), any increase of transportation costs shall be borne by the Contractor and any savings shall revert to the Government.

(x) When both f.o.b. origin and f.o.b. destination bids are desired (see § 19.104–2(b)), a provision as follows:

F.O.B. ORIGIN AND/OR DESTINATION (JUNE 1968)

Bids (Offers) are invited on the basis of both, f.o.b. origin and f.o.b. destination, and the Government will award on such basis as the Contracting Officer determines to be most advantageous to the Government. A bid (An offer) on the basis of f.o.b. origin only or f.o.b. destination only is acceptable, but will be evaluated only on the basis submitted.

(xi) Any provision concerning evaluation or award peculiar to the kind of contract (for example, the provision required by § 22.-702–1 of this chapter for laundry and dry cleaning services and that required by § 22.-502 of this chapter for mortuary services);

(xii) If, pursuant to § 1.1504 (c), (d), or (e) of this chapter, options are to be evaluated for award, the applicable Evaluation of Options provision shall be inserted;

(xiii) A statement explaining the evaluation procedure to eliminate the competitive advantage from the rent-free use of Government production and research property (see Subpart E, Part 13 of this chapter, particularly § 13.502);

(xiv) Any applicable information pertaining to evaluation and award where first article approval is involved (see § 1.1903 of this chapter); and

(xv) If the invitation is for supplies of which wool is a component part, the Domestic Wool Preference provision in § 6.304–2(c) of this chapter.

(5) Section E—Supplies/Services, and Prices.

(i) A brief description of the contract line items being procured (i.e., item numbers, FSN/part numbers, nouns and quantities);

(ii) Any provision for extent of quantity variation (see § 1.325 of this chapter); and

(iii) DD Form 1423 (Contract Data Requirements List) (see § 16.815 of this chapter); one or more line items in this section E referring to DD Form 1423 and requiring delivery of all data listed thereon.

(6) Section F—Description/Specifications.

(i) Where the FSN/part number and noun or brief description is not in sufficient detail to permit full and free competition, a sufficient description (including any necessary specifications) of the supplies and services to be furnished shall be provided in this section F. Reference to specifications shall include identification of all amendments or revisions thereof, applicable to the procurement and dates of both the specifications and the revisions (see Subpart L, Part 1 of this chapter); and

(ii) In accordance with § 1.1206–3 of this chapter, the statement in § 1.1206–3(a) for a brand-name or equal item.

(7) Section G—Preservation/Packaging/Packing.

(i) Preservation, packaging, packing, and marking requirements, if any (see § 1.1204 of this chapter).

(8) Section H—Delivery or Performance.

(i) The time of delivery or performance (see § 1.305 of this chapter);

(ii) Place and method of delivery (see Part 19 of this chapter); and

(iii) When MILSTAMP procedures are applicable to shipments of supplies, a provision setting forth the obligations of the contractor under such procedures (see § 19.101 of this chapter).

(9) Section I—Inspection and Acceptance.

(i) Place of inspection and place of acceptance, and other instructions as may be required to supplement the requirements of Subpart C, Part 14 of this chapter.

(10) Section J—Special Provisions.

(i) If the contract is to include option provisions, a clear statement of such provisions (see § 1.1506 of this chapter).

(11) Section K—Contract Administration Data.

(i) Accounting and appropriation data not included on Standard Form 33 or 26; and

(ii) Instructions to paying offices and administrative contracting offices, including name, organization code, and telephone area code, number, and extension of purchasing office representative.

(12) Section L—General Provisions.

(i) Such general contract provisions (contract clauses) as are required by law and by this subchapter;

(ii) Such additional general provisions as may be applicable to the procurement; and

(iii) Such alterations in contract provisions as are appropriate.

(13) Section M—List of Documents and Attachments.

(i) Here list all of the documents and attachments which make up the invitation for bids package; give form number, name, date and number of pages for each document; give name and number of pages for each appendix or other attachments (for example, work frequency schedules, work statements, specifications, special requirements, or other documents too lengthy to be conveniently written into the invitation proper).

(b) *Construction contracts.* For construction contracts, the invitation for bids shall contain the following information if applicable to the procurement involved (see also § 16.401–2 of this chapter).

(1) Invitation number;

(2) Name and address of issuing activity;

(3) Date of issuance;

(4) Date, hour, and place of opening. See § 2.202–1 concerning bidding time. Prevailing local time shall be used. Timing by the 24-hour clock shall not be used except where customary in the industry. The exact location of the bid depository, including the room and building numbers, and a statement that handcarried bids must be deposited therein;

(5) Number of pages;

(6) Requisition or other purchase authority and appropriation and accounting data;

(7) A brief description of the work to be performed. Reference to specifications shall include identification of all amendments or revisions thereof, applicable to the procurement and dates of both the specifications and the revisions (see § 1.1201 of this chapter). Such description shall comply with Subpart L, Part 1 of this chapter, relating to specifications;

(8) The time of performance (see § 18.105 of this chapter);

(9) Permission, if any, to submit telegraphic bids (see § 2.202–2);

(10) Permission, if any, to submit alternate bids, including alternate materials or designs (see § 1.1207 of this chapter);

(11) Bid guarantee, performance bond, and payment bond requirements, if any (see Subpart A, Part 10 of this chapter; § 16.401–2(c)(3)(i) of this chapter; and § 18.801 of this chapter). If a bid bond or other form of bid guarantee is required and Standard Form 22 (Instructions to Bidders) is not used, the solicitation shall include the provisions required by § 10.102–4 of this chapter.

(12) When considered necessary by the contracting officer, a requirement that all bids must allow a period for acceptance by the Government of not less than a minimum period stipulated in the invitation for bids, and that bids offering less than the minimum stipulated acceptance period will be rejected. The minimum period so stipulated should be no more than reasonably required for evaluation of bids and other pre-award processing. To accomplish the foregoing, a paragraph substantially as follows may be included in the schedule or other appropriate place in the Invitation for Bids:

BIDS—ACCEPTANCE PERIOD (APRIL 1960)

Bids offering less than _____ days for acceptance by the Government from the date set for opening of bids will be considered nonresponsive and will be rejected.

In construction contracts, a 30-day bid acceptance period is normal, but may be less, and in unusual circumstances a period of 60 days may be specified.

(13) Any authorized special provisions, necessary for the particular procurement, relating to such matters as progress payments (see Defense Contract Financing Regulations, § 163.73 of this chapter), patent rights (see § 18.908 of this chapter), liquidated damages, profit limitations, Buy American Act (see Subpart E, Part 18 of this chapter), procurement by barter (see § 4.503–5 of this chapter), etc.;

(14) Such general contract provisions or conditions as are required by law or by this subchapter;

(15) Any applicable wage determinations of the Secretary of Labor;

(16) A statement of the exact basis upon which bids will be evaluated and award made; to include any Government costs or expenditures (other than bid prices) to be added or deducted, or any provision for escalation as factors for evaluation (see § 18.201). (The amount of any royalty payable under the royalty sharing provisions of a previously accepted value engineering change proposal incorporated in the solicitation will be considered in evaluating offers when the value engineering change is one of two or more acceptable alternatives under the solicitation.) See also § 1.304–3.

(17) When considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition, such as improper kinds of multiple bidding, a requirement that each bidder submit with his bid an affidavit concerning his affiliation with other concerns. To accomplish the foregoing, a paragraph substantially as follows shall be included in the Schedule or other appropriate place in the invitation for bids. Failure to furnish such an affidavit shall be treated as a minor informality or irregularity (see § 2.405).

AFFILIATED BIDDERS (JANUARY 1961)

(a) Business concerns are affiliates of each other when either directly or indirectly (i) one concern controls or has the power to control the other, or (ii) a third party controls or has the power to control both.

(b) Each bidder shall submit with his bid an affidavit containing information as follows:

(i) Whether the bidder has any affiliates;

(ii) The names and addresses of all affiliates of the bidder; and

(iii) The names and addresses of all persons and concerns exercising control or ownership of the bidder and any or all of his affiliates, and whether as common officers, directors, stockholders holding controlling interest, or otherwise.

Failure to furnish such an affidavit may result in rejection of the bid.

(18) Directions for obtaining copies of any documents, such as plans, drawings, and specifications, as well as information as to charge, if any, to be made for drawings and specifications (see § 16.401–2(c)(3)(ii)(b) of this chapter);

(19) In accordance with § 6.1104 of this chapter, the U.S.-owned foreign currency provisions set forth therein;

(20) Information regarding bidding material which shall include Instructions to Bidders, the Bid Form, the Contract Form, the General Provisions, any conditions, the specifications and drawings (see § 1.1203 of this chapter);

(21) If the contract is to be conditioned on the availability of funds, a clear statement of such condition (see § 1.318 of this chapter);

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

(23) A statement that prospective bidders should indicate in the bid the address to which payment should be mailed, if such address is different from that shown for the bidder;

(24) Invitations for bids which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 1.307 of this chapter) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a ☐ DX _____ rating; ☐ DO _____ rating; ☐ DMS allotment number _____ (Contracting Officer check appropriate box or boxes) in accordance with the provisions of BDSA Regulation 2 and/or DMS Regulation 1.

(25) Unless exempted by § 12.805 of this chapter from inclusion of the Equal Opportunity clause, the following provisions:

(A) On the face page or cover sheet of the solicitation, these notices:

I. *Note the Affirmative Action Requirement of the Equal Opportunity Clause Which May Apply to the Contract Resulting From This Solicitation.*

II. *Note the Certification of Nonsegregated Facilities in This Solicitation.* Bidders, offerors, and applicants are cautioned to note the "Certifiction of Nonsegregated Facilities" in the solicitation. Failure of a bidder or offeror to agree to the certification will render his bid or offer nonresponsive to the terms of solicitations involving awards of contracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause. (January 1969)

(B) *Certification of Nonsegregated Facilities.* (Applicable to contracts, subcontracts, and to agreements with applicants who are themselves performing Federally assisted construction contracts, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause.)

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities. A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order on Elimination of Segregated Facilities, by the Secretary of Labor (32 F.R. 7439, May 19, 1967), must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). (March 1968)

(NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.)

(26) The applicable small business size standard (see §§ 1.701 and 1.703 of this chapter);

(27) If pursuant to § 1.1504 (c), (d), or (e) of this chapter, options are to be evaluated for award, the applicable Evaluation of Options provision shall be inserted;

(28) When the contract is for the purchase of a patented item for which the Government is a licensee (§ 1.304–3 of this chapter), include a provision substantially as follows:

The Government is obligated to pay a royalty applicable to the proposed procurement because of a license agreement between the Government and the patent owner. The patent number is _____ and the royalty rate is _____. If the bidder is the owner of, or a licensee under the patent, he may so state in his bid, otherwise his bid will be evaluated by adding to his bid an amount equal to the royalty.

(29) If the contract is pursuant to the Balance of Payments Program, the procedures in § 6.804 of this chapter are applicable;

(30) Except when the Assistant Secretary of Defense (Installations and Logistics) has granted a waiver (see § 18.110 of this chapter) prior to solicitation, if the invitation contains one or more items subject to statutory cost limitation, a provision substantially as follows:

Cost Limitation. A bid which does not contain separate bid prices for the items identified as subject to a cost limitation may be considered nonresponsive. A bidder by signing his bid certifies that each price bid on items subject to a cost limitation includes an appropriate apportionment of all applicable estimated costs, direct and indirect, as well as overhead and profit. Bids may be rejected which (i) have been materially unbalanced for the purpose of bringing affected items within cost limitations, or (ii) exceed the cost limitations unless such limitations have been waived by the Assistant Secretary of Defense (Installations and Logistics) prior to award.

(31) If a construction contract is estimated to exceed $1 million or in appropriate contracts under $1 million, the clause set forth in § 7.603–15 of this chapter and a statement that the successful bidder must furnish the contracting officer within (number) days after award the items of work which he will perform with his own forces and the estimated cost of those items unless he has submitted those items with his bid;

(32) The estimated magnitude of the proposed construction indicated by § 18.109 of this chapter;

(33) Special provisions relating to the Buy American Act (see Subpart E, Part § 18.109 of this chapter;

(34) Statement of arrangements to be made for inspecting the site, including designation of the person or persons, if any, with whom such arrangements may be made and who will answer questions or furnish information;

(35) Information which may affect performance of the work such as boring samples, original boring logs, etc.;

(36) Information as to what utilities the Government will furnish during construction, when the contracting officer determines that any utilities are adequate for the needs of both the Government and the contractor. Such information shall specify any special conditions of use to be imposed on the contractor and shall also specify any utilities to be furnished without charge; utilities shall be furnished without charge when the contracting officer determines that this is advantageous to the Government, as when the administrative costs incident to maintaining records and collecting payments will approximate the cost of the utility services to be furnished. Such information may also include any applicable rates to be imposed under the Availability and Use of Utility Services clause (see § 7.603–30 of this chapter);

(37) Information concerning prebid conference;

(38) If it is necessary to advertise before receipt of a wage determination, a notice that the schedule of minimum wage rates to be paid under the contract will be published as an amendment to the specifications;

(39) Modifications prior to date set for opening bids: The right is reserved, as the interest of the Government may require, to revise or amend the specifications or drawings or both prior to the date set for opening bids. Such revisions and amendments, if any, will be announced by an amendment or amendments to this Invitation for Bids. If the revisions and amendments are of a nature which requires material changes in quantities or prices bid or both, the date set for opening bids may be postponed by such number of days as in the opinion of the issuing officer will enable bidders to revise their bids. In such cases, the amendment will include an announcement of the new date for opening bids.

(40) Government's privilege in making awards: The Government further reserves the right to make award of any or all schedules of any bid, unless the bidder qualifies such bid by specific limitation; also to make award to the bidder whose aggregate bid on any combination of bid schedules is low. For the purpose of this Invitation for Bids, the word "item" as used in paragraph 10(c) of Standard Form 22 shall be considered to mean "schedule".

(41) Additive or deductive items: When it appears that funds available for a project may be insufficient for all the desired features of construction, the contracting officer may provide in the invitation for a first or base bid item covering the work generally as specified and for one or more additive or deductive bid items which progressively add or omit specified features of the work in a stated order of priority. In such case, the invitation shall include a provision substantially as set forth below, and the low bidder and the bid items to be awarded shall be determined as therein provided. The contracting officer, prior to the opening of bids, shall determine and record in the contract file the amount of funds available for the project. The amount so recorded shall be controlling for determining the low bidder but may be increased for determinig the bid items to be awarded to him provided that award on such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items.

ADDITIVE OR DEDUCTIVE ITEMS (APRIL 1968)

The low bidder for purposes of award shall be the conforming responsible bidder offering the low aggregate amount for the first or base bid item, plus or minus (in the order of priority listed in the schedule) those additive or deductive bid items providing the most features of the work within the funds determined by the Government to be available before bids are opened. If addition of another bid item in the listed order of priority would make the award exceed such funds for all bidders, it shall be skipped and the next subsequent additive bid item in a lower amount shall be added if award thereon can be made within such funds. For example, when the amount available is $100,000 and a bidder's base bid and four successive additives are $85,000, $10,000, $8,000, $6,000 and $4,000, the aggregate amount of the bid for purposes of award would be $99,000 for the base bid plus the first and fourth additives, the second and third additives being skipped because each of them would cause the aggregate bid to exceed $100,000. In any case all bids shall be evaluated on the basis of the same additive or deductive bid items, determined as above provided. The listed order of priority need be followed only for determining the low bidder. After determination of the low bidder as stated, award in the best interests of the Government may be made to him on his base bid and any combination of his additive or deductive bid for which funds are determined to be available at the time of the award: *Provided*, That award on such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items.

(42) A statement on the face of the invitation as follows:

Bids must set forth full, accurate, and complete information as required by this invitation for bids (including attachments). The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

(43) The following notice shall be used in accordance with § 16.401–1 of this chapter:

LATE BIDS AND MODIFICATIONS OR WITHDRAWALS (DECEMBER 1968)

(a) Bids and modifications or withdrawals thereof received at the office designated in the invitation for bids after the exact time set for opening of bids will not be considered unless: (1) They are received before award is made; and either (2) they are sent by registered mail, or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained and it is determined by the Government that the late receipt was due solely to delay in the mails for which the bidder was not responsible; or (3) if submitted by mail (or by telegram if authorized), it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation: *Provided*, That timely receipt at such installation is established upon examination of an appropriate date or time stamp (if any) of such installation, or of other documentary evidence of receipt (if readily available) within the control of such installation or of the post office serving it. However, a modification which makes the terms of the otherwise successful bid more favorable to the Government will be considered at any time it is received and may thereafter be accepted.

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

(c) The time of mailing of late bids submitted by registered or certified mail shall be deemed to be the last minute of the date shown in the postmark on the registered mail receipt or registered mail wrapper or on the Receipt for Certified Mail unless the

bidder furnishes evidence from the post office station of mailing which establishes an earlier time. In the case of certified mail, the only acceptable evidence is as follows: (1) Where the Receipt for Certified Mail identifies the post office station of mailing, evidence furnished by the bidder which establishes that the business day of that station ended at an earlier time, in which case the time of mailing shall be deemed to be the last minute of the business day of that station; or (2) an entry in ink on the Receipt for Certified Mail showing the time of mailing and the initials of the postal employee receiving the item and making the entry, with appropriate written verification of such entry from the post office station of mailing, in which case the time of mailing shall be the time shown in the entry. If the postmark on the original Receipt for Certified Mail does not show a date, the bid shall not be considered.

(44) When DD Form 1660, Management Control Systems Summary List (see §§ 1.331 and 16.827–4 of this chapter) and the clause in § 7.104–50 of this chapter are to be included in the solicitation, the following:

MANAGEMENT CONTROL SYSTEMS SUMMARY LIST (OCTOBER 1969)

Note the attachment to this solicitation of DD Form 1660, Management Control Systems Summary List, and the contract clause entitled "Management Control Systems Requirements."

(45) If required by § 12.808–3 of this chapter, the Preaward Compliance Check Notice set forth in § 3.501(b)(3) (xxxix) of this chapter.

4. Sections 2.405 (b) and (e) and 2.407–5(c) are revised to read as follows:

§ 2.405 Minor informalities or irregularities in bids.

* * * * *

(b) Failure to furnish required information concerning the number of the bidder's employees or failure to make a representation concerning his size status;

(e) Failure to furnish an affidavit concerning affiliates, if required pursuant to § 2.201 (a)(2)(ii) and (b)(17).

§ 2.407–5 Other factors to be considered.

* * * * *

(c) Advantages or disadvantages to the Government that might result from making multiple awards (see § 2.201(a)(4)(iii)).

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

5. Sections 3.501, 3.807–3, 3.807–4, and 3.807–5 are revised; in § 3.807–10, the introductory text of paragraph (a) is revised; in § 3.807–12, the introductory text of paragraph (a) and paragraph (c) are revised, as follows:

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

(a) *General.* Forms used for requesting proposals or quotations on negotiated procurement shall be as required by paragraphs (b) and (c) of this section and by Part 16 of this chapter, or if not required by such part, as prescribed by Departmental regulations. Generally, requests for proposals and requests for quotations shall be in writing. However, in appropriate cases as prescribed in paragraph (d) of this section, proposals or quotations may be solicited orally: *Provided,* That the resulting definitive contract is prepared on the prescribed contract form for signature by both parties. Solicitations shall contain the information necessary to enable a prospective offeror or quoter to prepare a proposal or quotation properly. All such information shall be set forth in full in the solicitation rather than incorporated by reference, except that:

(1) Standard and DD ASPR forms consisting of general provisions (contract clauses) prescribed by Part 7 of this chapter may be incorporated by reference to the form number, form name, and edition date; and

(2) Other general provisions authorized by Part 7 of this chapter may be incorporated by reference to the section number, clause title, and date of clause, in accordance with § 7.001 of this chapter, except that the Equal Opportunity clauses in § 12.804 of this chapter shall be set forth in full where the resultant contract is expected to be $50,000 or more.

No other contract clauses shall be incorporated by reference. Written requests shall be as complete as possible and normally should contain the information in paragraphs (b) and (c) of this section, as appropriate, if applicable to the procurements involved.

(b) *Contract forms and uniform contract format.* This paragraph applies to all negotiated procurements except small purchases and other simplified purchase agreements; basic agreements; preinvitation notices; the first step of two-step formal advertising; construction and architect-engineer contracts; ship construction including shipbuilding, conversion and repair; procurements for which special contract forms inconsistent herewith are prescribed by Subpart E, Part 16 of this chapter; and procurements of subsistence; however, the three procurements last enumerated need not be arranged in the Uniform Contract Format, they must contain all applicable items. Requests for proposals shall be prepared on Standard Form 33, Solicitation, Offer and Award (see §16.102–3 of this chapter), or on forms prescribed by Departmental regulations; requests for quotations shall be prepared on Standard Form 18, Request for Quotations (see § 16.102–1 of this chapter) or on forms prescribed by Departmental regulations. The following subparagraphs are grouped so as to conform to the Uniform Contract Format (including the Table of Contents) set out below and prescribed in § 16.104–2 of this chapter. All items of information shall be set forth in the appropriate sections. Arrangement in this Uniform Contract Format for fixed-price supply and service contracts does not preclude use of the following subparagraphs in preparing requests for proposals or requests for quotations for other types of contracts.

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THE FOLLOWING CHECKED SECTIONS ARE CONTAINED IN THE CONTRACT

(X)	Sec.	Page
	PART I—GENERAL INSTRUCTIONS	
	A Cover sheet.	
	B Contract Form and Representations, Certifications, and Other Statements of Offeror.	
	C Instructions, Conditions, and Notices to Offerors.	
	D Evaluation & Award Factors.	
	PART II—THE SCHEDULE	
	E Supplies/Services & Prices.	
	F Description/Specifications.	
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	K Contract Administration Data.	
	PART III—GENERAL PROVISIONS	
	L General Provisions.	
	PART IV—LIST OF DOCUMENTS AND ATTACHMENTS	
	M List of Documents and Attachments.	

(1) Section A—Cover Sheet.

(i) DD Form 1707, Information to Offerors, to be used with Standard Form 33 or with other Request for Proposals forms prescribed by Departmental regulations;

(ii) DD Form 1706, Information to Quoters, to be used with Standard Form 18, or with other Request for Quotations forms prescribed by Departmental regulations.

(2) Section B—Contract Forms and Representations, Certifications, and Other Statements of Offeror or Quoter.

(i) For requests for proposals, either Standard Form 33 (Solicitation, Offer and Award) or forms prescribed by Departmental regulations. Instructions for filling out Standard Form 33 are in §§ 16.104–1 and 16.104–2 of this chapter;

(ii) For requests for quotations, either Standard Form 18 (Request for Quotations) or forms prescribed by Departmental regulations. Instructions for filling out Standard Form 18 are in §§ 16.104–1 and 16.104–5 of this chapter;

(iii) When neither Standard Form 18 nor Standard Form 33 is used, the following shall be included in the first page of the solicitation:

(*a*) Name and address of issuing activity, channels for submission of proposal/quotation, location, including room and building number where proposals/quotations including a hand carried proposal or quotation must be submitted;

(*b*) Date of issuance;

(*c*) Closing date and time;

(*d*) Number of pages;

(*e*) Requisition or other purchase authority;

(*f*) The following:

The Offeror/Quoter represents and certifies as part of his proposal/quotation that: (Check or complete all applicable boxes or blocks.)

(I) *Small Business.*

He ☐ is, ☐ is not, a small business concern. A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is quoting on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part

121, as amended, which contains detailed industry definitions and related procedures.) If the offeror/quoter is a small business concern and is not the manufacturer of the supplies offered, he also represents that all supplies to be furnished hereunder ☐ will, ☐ will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico.

(II) *Regular Dealer-Manufacturer.* (Applicable only to supply contracts exceeding $10,000.)

He is a ☐ regular dealer in, ☐ manufacturer of, the supplies offered.

(III) *Certification of Independent Price Determination.* (Applicable only to proposals/quotations in excess of $2,500 where a firm fixed-price contract or fixed-price contract with escalation is to be awarded.)

(a) By submission of this proposal/quotation, the offeror/quoter certifies, and in the case of a joint proposal/quotation, each party thereto certifies as to its own organization, that in connection with his procurement:

(1) The prices in this proposal/quotation have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror/quoter or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this proposal/quotation have not been knowingly disclosed by the offeror/quoter and will not knowingly be disclosed by the offeror/quoter prior to award of the procurement, directly or indirectly to any other offeror/quoter or to any competitor; and

(3) No attempt has been made or will be made by offeror/quoter to induce any other person or firm to submit or not to submit a proposal/quotation for the purpose of restricting competition.

(b) Each person signing this proposal/quotation certifies that:

(1) He is the person in the offeror's/quoter's organization responsible within that organization for the decision as to the prices being quoted herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or

(2) (i) He is not the person in the offeror's/quoter's organization responsible within that organization for the decision as to the prices being quoted herein but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (ii) he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above;

(c) This certification is not applicable to a foreign offeror/quoter submitting a proposal/quotation for a contract which requires performance or delivery outside the United States, its possessions, and Puerto Rico;

(d) A proposal/quotation will not be considered for award where (a)(1), (a)(3), or (b) above, has been deleted, or modified. Where (a)(2) above, has been deleted or modified, the proposal/quotation will not be considered for award unless the offeror/quoter furnishes with his proposal/quotation a signed statement which sets forth in detail the circumstances of the disclosure and the head of the agency, or his designee, determines that such disclosure was not made for the purpose of restricting competition. (OCTOBER 1969)

(iv) Where a request for proposals form other than Standard Form 33 is used, a requirement for stipulation of a time within which the Government may accept the proposal;

(v) Where Standard Form 33 is not used, the following:

The Offeror/Quoter represents and certifies as part of his proposal/quotation that: (Check all applicable boxes or blocks.)

(A) *Contingent Fee.*

(a) He ☐ has, ☐ has not, employed or retained any company or person (other than a full-time, bona fide employee working solely for the quoter) to solicit or secure this contract, and (b) he ☐ has, ☐ has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the offeror/quoter) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract; and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer. (For interpretation of the representation, including the term "bona fide employee", see Code of Federal Regulations, Title 41, Subpart 1–1.5.)

If the offeror/quoter, by checking the appropriate box provided therefor, has represented that he has employed or retained a company or person (other than a full-time bona fide employee working solely for the offeror/quoter) to solicit or secure this contract, or that he has paid or agreed to pay any fee, commission, percentage, or brokerage fee to any company or person, contingent upon or resulting from the award of this contract, he shall furnish, in duplicate, a complete Standard Form 119, Contractor's Statement of Contingent or Other Fees. If offeror/quoter has previously furnished a completed Standard Form 119 to the office issuing this solicitation, he may accompany his proposal/quotation with a signed statement (a) indicating when such completed form was previously furnished, (b) identifying by number the previous solicitation or contract, if any, in connection with which such form was submitted, and (c) representing that the statement in such form is applicable to this proposal/quotation.

(B) *Type of Business Organization.*

He operates as ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, ☐ a corporation, incorporated under the laws of the State of _____.

(C) *Equal Opportunity.*

He ☐ has, ☐ has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause herein or the clause originally contained in section 301 of Executive Order No. 10925, or the clause contained in section 201 of Executive Order No. 11114; that he ☐ has, ☐ has not, filed all required compliance reports, and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.)

(D) *Buy American Certificate.*

The offeror/quoter hereby certifies that each end product, except the end products listed below, is a domestic source end product (as defined in the clause entitled "Buy American Act"); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

Excluded end products	Country of origin

(October 1969)

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

(vii) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement that prospective offerors/quoters should indicate in the offer/quotation the address to which payment should be mailed, if such address is different from that shown for the offeror/quoter. (Contracting Officers shall include this information in all resultant contracts which are to be administered by a Defense Contract Administration Services Regional Office.);

(viii) Unless exempted by § 12.805 of this chapter from inclusion of the Equal Opportunity clause, the provisions set forth in § 2.201(a)(2)(vii) of this chapter regarding the maintenance of nonsegregated facilities;

(ix) When Standard Form 33 or other request for proposals form is used, a statement as follows:

This procurement is not set aside for labor surplus area concerns. However the offeror's status as such a concern may affect entitlement to award in case of tie offers, or of offer evaluation in accordance with the Buy American clause of this solicitation. In order to have his entitlement to a preference determined if those circumstances should apply, the offeror must:

(i) Furnish with his offer evidence that he or his first-tier subcontractor is a certified concern in accordance with 29 CFR 8.7(b), and identify below the address in or near a "section of concentrated unemployment or underemployment," as classified by the Secretary of Labor, at which the costs he will incur on account of manufacturing or production (by himself if a certified concern or by certified concerns acting as first-tier subcontractors) amount to more than 25 percent of the contract price; or

(ii) Identify below the persistent or substantial labor surplus area in which the costs that he will incur on account of manufacturing or production (by himself or his first-tier subcontractors) amount to more than 50 percent of the contract price.

Failure to furnish evidence of certification by the Secretary of Labor if applicable, and to identify the locations as specified above will preclude consideration of the offeror as a labor surplus area concern. Offeror agrees that if, as a labor surplus area concern, he is awarded a contract for which he would not have qualified in the absence of such status, he will perform the contract or cause it to be performed, in accordance with the obligations which such status entails. (January 1969)

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

(xi) If the contract is for the Military Assistance Program, the certificate set forth in § 6.703–3 of this chapter;

(xii) If the contract is a supply or service contract and is pursuant to the Balance of Payments Program, the certificate set forth in § 6.806–3 of this chapter;

(xiii) A request that prospective offerors or quoters state whether, to their knowledge, the procurement involves the acquisition of Government production and research property, the disposal of which may be restricted by patent or other rights (see § 13.307(b) of this chapter);

(xiv) When Standard Form 33 or other request for proposals form is used, the following statement:

CONTRACTOR'S DATA CERTIFICATION
(APRIL 1967)

The offeror shall submit with his offer a certification as to whether he has delivered

or is obligated to deliver to the Government under another contract or subcontract the same data; if so, he shall identify one such other contract or subcontract for each item of data and state where he has already delivered such data.

(xv) When Standard Form 33 or other request for proposals form is used, the appropriate transportation solicitation provisions set forth in § 2.201(a)(2) (x) through (xiv) of this chapter;

(xvi) If it is expected that the procurement will result in a fixed price contract for which cost or pricing data will not be obtained, the price representation provided in § .604–3(d) shall be set forth except when adequate price competition as defined in § 3.807–1(b)(1) is anticipated;

(xvii) Any requirement for royalty information to be furnished with the offer or quotation (see § 9.110(a) of this chapter);

(xviii) Where neither Standard Form 33 (Solicitation, Offer and Award) nor Standard Form 18 (Request for Quotations is used, a requirement for inclusion of "county" as part of quoter's/offeror's address will be inserted;

(xix) When the contract is for the purchase of a patented item for which the Government is a licensee (§ 1.304–3 of this chapter), the provision in § 2.201(a)(2)(ix) of this chapter;

(xx) Unless exempted by §12.805 of this chapter from inclusion of the Equal Opportunity clause, the Certification of Non-Segregated Facilities in § 2.201(a)(2)(vii) of this chapter.

(3) Section C—Instructions, Conditions, and Notices to Offerors/Quoters.

(i) When Standard Form 33 is used, it shall be accompanied by Standard Form 33A (Solicitation Instructions and Conditions);

(ii) Type of contract contemplated, together with type of repricing, if any;

(iii) When telegraphic offers are authorized in a solicitation using Standard Form 33 (Solicitation, Offer, and Award) or other request for proposals form a provision similar to that set forth in § 2.202–2 of this chapter;

(iv) When Standard Form 33 or other request for proposals form is used, permission, if any, to submit alternate offers, including alternate materials or designs (see § 1.1207 of this chapter);

(v) When Standard Form 33 or other request for proposals form is used and no award will be made for less than the full quantities solicited, a statement to that effect;

(vi) When Standard Form 33 or other request for proposals form is used and award is to be made by specified groups of items or in the aggregate, a statement to that effect;

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

(viii) Directions for obtaining copies of any documents, such as plans, drawings and specifications, which have been incorporated by reference (see § 1.1203 of this chapter);

(ix) Information as to requirements for Certificate of Current Cost or Pricing Data (see § 3.807–3);

(x) Any requirements for samples or descriptive literature (for definitions, see §§ 2.202–4 and 2.202–5(a) of this chapter);

(xi) If the contract is to be conditioned on the availability of funds, include the clause in § 1.318 of this chapter;

(xii) Where a request for proposals from other than Standard Form 33 is used, consistent with § 3.805–1(a)(5) notice to all offerors that award may be made without discussion of proposals;

(xiii) If the contract involves performance of services on a Government installation, the following provision:

SITE VISIT (OCTOBER 1969)

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of the contract.

(xiv) If the contract is for multiyear procurement, the provisions required by § 1.322–2(c) of this chapter;

(xv) In accordance with § 6.1104 of this chapter, the U.S.-owned foreign currency provision set forth therein;

(xvi) Any progress payments provisions (see Subpart E, Part 163 of this chapter);

(xvii) Any applicable Service Contract Act wage determinations of the Secretary of Labor (see Subpart J, Part 12 of this chapter);

(xviii) Solicitations which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 1.307 of this chapter) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be awarded a ☐ DX ------ rating; ☐ DO ------ rating; ☐ DMS allotment number ☐ ------ (Contracting Officer check appropriate box or boxes) in accordance with the provisions of BDSA Regulation 2 and/or DMS Regulation 1. (October 1969)

(xix) Where the contract is to contain a first article approval clause, the statement required by § 1.1903 of this chapter;

(xx) Any applicable notices of small business or labor surplus area set-asides (see §§ 1.706–5, 1.706–6, and 1.804–2 of this chapter);

(xxi) The applicable size standard and product classification (see §§ 1.701 and 1.703 of this chapter);

(xxii) Any offer by the Government to provide Government production and research property for the performance of the contract, and any special provisions relating thereto (see Subpart C, Part 13 of this chapter) (see, for example, § 13.202(b));

(xxiii) Description of the procedures to be followed in obtaining permission to use Government production and research property (see Subparts D and E, Part 13 of this chapter);

(xxiv) A statement as follows:

UNNECESSARILY ELABORATE CONTRACTOR'S PROPOSAL'S/QUOTATIONS (OCTOBER 1969)

Unnecessarily elaborate brochures or other presentations beyond that sufficient to present a complete and effective proposal or quotation are not desired and may be construed as an indication of the offeror's or quoter's lack of cost consciousness. Elaborate art work, expensive paper and bindings and expensive visual and other presentation aids are neither necessary nor wanted.

(xxv) The provision in § 1.1206–3(b) of this chapter (suitably modified for negotiated procurement) when a "brand-name or equal" item is being procured

(xxvi) When the clause in § 7.104–62 of this chapter is included in the contract and Appendix I, Table 2 (see § 30.8 of this chapter), does not list addresses of the required special distribution recipients, the applicable names and addreses shall be included in this section C. The purchasing office issuing the contract shall reference the line item as necessary, the addresses of the status control activity/inventory manager, and, if applicable, the processing purchasing office, cited in the Military Interdepartmental Purchase Request (MIPR);

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

(xxviii) When Standard Form 33 (Solicitation, Offer, and Award) is not used, the provision for late proposals and modifications as set forth in § 3.506 (In the case of request for quotations, the provision in § 3.506 shall be appropriately modified.);

(xxix) Instructions with respect to disposition of drawings and specifications supplied with the request for proposals or request for quotations;

(xxx) Statutory cost limitations, if any;

(xxxi) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement as follows:

ORDER OF PRECEDENCE (OCTOBER 1969)

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

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

(xxxii) When Standard Form 33 or other request for proposals form is used for the procurement of data, a provision that if offeror has failed to complete Items 25 and 26 of DD Form 1423 (Contract Data Requirements List) in accordance with instructions on the form as part of his original submission and refuses to complete them on request, his offer may be rejected;

(xxxiii) If the procurement is by barter, the provision in § 4.503–5 of this chapter;

(xxxiv) In accordance with § 1.1208 of this chapter a provision concerning the use of new material and a provision concerning the use of former Government surplus property;

(xxxv) When Standard Forms 33 and 33A are used, the following statement shall be inserted:

The following provision is substituted for subparagraph (b) of Clause 9, Discounts, on Standard Form 33A:

DISCOUNTS (JUNE 1968)

In connection with any discount offered, time will be computed from date of delivery of the supplies to carrier when acceptance is at the point of origin, or from date of delivery at destination or port of embarkation when delivery and acceptance are at either of these points, or from the date the correct invoice or voucher is received in the office specified by the Government, if the latter is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

(xxxvi) A statement covering special technical capabilities which the offeror must possess;

(xxxvii) Where appropriate, description of information required to support proposed prices (subcontract structure, make-or-buy program, purchasing system, royalty, and cost and price information) (see Subparts H and I of this part; Subpart A, Part 9; and Part 23 of this chapter);

(xxxviii) When DD Form 1660, Management Control Systems Summary List (see §§ 1.331 and 16.827–4 of this chapter) and the clause in § 7.104–50 of this chapter are to be included in the solicitation, the following:

MANAGEMENT CONTROL SYSTEMS SUMMARY LIST (OCTOBER 1969)

Note the attachment to this solicitation of DD Form 1660, Management Control Systems Summary List, and the contract clause entitled "Management Control Systems Requirements."

(xxxix) If required by § 12.808–3 of this chapter, the following Notice of Preaward Compliance Check of Nonexempt Contracts:

PREAWARD COMPLIANCE CHECK (SEPTEMBER 1969)

In accordance with regulations of the Office of Federal Contract Compliance, 41 CFR 60.1, as implemented by section XII, Part 8 of the Armed Services Procurement Regulation, an award in the amount of $1 million or more will not be made under this solicitation unless the offeror and each of his known first-tier subcontractors (to whom he intends to award a subcontract of $1 million or more) are found, on the basis of a compliance check, to be in a satisfactory Equal Opportunity compliance status. In this connection the prime Contractor shall supply with his proposal a list of such known subcontractors and a statement as to whether he and each of such known subcontractors have ever held any Government contracts subject to Executive Orders 10925, 11114, or 11246, and if so, whether he and each of such known subcontractors have previously filed compliance reports thereunder.

(xl) If the contract contains the Safety Precautions for Ammunition and Explosives clause, a statement as prescribed in § 2.201 (a) (3) (xxx) of this chapter.

(4) Section D—Evaluation Factors for Award.

(i) Factors other than price (including technical quality where technical proposals or quotations are requested), which will be given paramount consideration in the awarding of the contract;

(ii) Adequate statements of information required to enable evaluation of technical and financial capabilities;

(iii) Discount provisions (see § 2.407–3 of this chapter);

(iv) Any provision concerning evaluation or award peculiar to the kind of contract (for example, the provision required by § 22.702–1 of this chapter for laundry and dry cleaning services and that required by § 22.502 of this chapter for mortuary services);

(v) If pursuant § 1.1504 (c), (d), or (e) of this chapter options are to be evaluated for award, the applicable Evaluation of Options provision shall be inserted;

(vi) A statement explaining the evaluation procedure to eliminate the competitive advantage from the rent-free use of Government production and research property (see Part 13 of this chapter, particularly § 13.503);

(vii) Any applicable information pertaining to evaluation and award where first article approval is involved (see § 1.1903 of this chapter);

(viii) When Standard Form 33 or other request for proposals form is used in a solicitation for supplies of which wool is a component part, the Domestic Wood Preference provision in § 6.304–2(c) of this chapter;

(ix) When Standard Form 33 or other request for proposals form is used, the appropriate transportation solicitation evaluation provisions set forth in § 2.201(a)(4) (v) through (x) of this chapter;

(x) Identification of special factors, such as Government costs or other expenditures, including reliability and maintainability requirements, which must be considered in the evaluation of proposals or quotations (The amount of any royalty payable under the royalty sharing provisions of a previously accepted value engineering change proposal incorporated in the solicitation will be considered in evaluating offers when the value engineering change is one of two or more acceptable alternatives under the solicitation); see also § 1.304–3 of this chapter.

(5) Section E—Supplies/Services, and Prices.

(i) A brief description of the contract line items being produced (i.e., item numbers, FSN/part numbers, nouns and quantities);

(ii) Any provisions for extent of quantity variations (see § 1.325 of this chapter);

(iii) When Standard Form 33 or other request for proposals form is used for the procurement of data, one or more line items in this section E referring to DD Form 1423 and requiring delivery of all data listed thereon.

(6) Section F—Description/Specifications.

(i) Where the FSN/part number and noun or brief description is not in sufficient detail to permit full and free competition, a sufficient description (including any necessary specifications) of the supplies and services to be furnished shall be provided in this section F. Reference to specifications shall include identification of all amendments or revisions thereof, applicable to the procurement and dates of both the specifications and the revisions (see Subpart L, Part 1 of this chapter);

(ii) In accordance with § 1.1206 of this chapter, the statement in § 1.1206–3(a) for a brand-name or equal item.

(7) Section G—Preservation / Packaging/ Packing.

(i) Preservation, packaging, packing, and marking requirements, if any (see § 1.1204 of this chapter).

(8) Section H—Delivery or Performance.

(i) The time of delivery or performance (see § 1.305 of this chapter);

(ii) Place and method of delivery (see Part 19 of this chapter);

(iii) When MILSTAMP procedures are applicable to shipments of supplies, a provision setting forth the obligations of the contractor under such procedures (see § 19.101 of this chapter).

(9) Section I—Inspection and Acceptance.

(i) Place of inspection and place of acceptance, and other instructions as may be required to supplement the requirements of Subpart C, Part 14 of this chapter.

(10) Section J—Other Special Provisions.

(i) If the contract is to include option provisions, a clear statement of such provisions (see § 1.1506 of this chapter).

(11) Section K—Contract Administration Data.

(i) Accounting and appropriation data (NOTE: Where Standard Form 33 or Standard Form 26 is used, include only data not set forth on that form);

(ii) Instructions to paying offices and administrative contracting offices, including name, organization code, and telephone area code, number, and extension of purchasing office representative.

(12) Section L—General Provisions.

(i) Such general contract provisions (contract clauses) as are required by law or by this regulation;

(ii) Such additional general provisions (contract clauses) as may be applicable to the procurement;

(iii) Such alterations in contract provisions as are appropriate.

(13) Section M—List of Documents and Attachments.

(i) Here list all of the documents and attachments which make up the request for proposals or request for quotations package; give form number, name, date, and number of pages for each document; give name and number of pages for each appendix or other attachment (for example, work frequency schedules, work statements, specifications, special requirements, or other documents too lengthy to be conveniently written into the request for proposals or request for quotations proper).

(c) *Construction contracts.* Solicitations for negotiated construction contracts shall contain the following information if applicable to the procurement involved.

(1) Requests for proposals number;

(2) Name and address of issuing activity, channels for submission of offer, exact location, including room and building numbers where offers including a hand carried offer must be submitted, and identification of the Government office or individual responsible for supplying additional information and answering inquiries;

(3) Date of issuance;

(4) Closing date and time;

(5) Number of pages and list of enclosures;

(6) Requisition or other purchase authority and appropriation and accounting data, if considered appropriate by the purchasing activity;

(7) A brief description of the work to be performed;

(8) Type of contract contemplated, together with type of repricing;

(9) The time of performance (see § 18.105 of this chapter);

(10) Bid guarantee, performance bond and payment bond requirements if any (see Subpart A, Part 10 of this chapter; and §§ 16.401–2(c)(3)(i) and 18.801 of this chapter). If a bid bond or other form of bid guarantee is required, the solicitation shall include the provision required by § 10.102–4 of this chapter;

(11) A requirement for stipulation of a time within which the Government may accept the proposal;

(12) Consistent with § 3.805–1(a)(5) of this chapter, notice to all offerors of the possibility that award may be made without discussion of proposals (All requests for proposals for construction shall contain a provision that in the event several proposals are received and the contracting officer is satisfied that the offerors understand the work and are responsible prospective contractors and that the low proposal is reasonable and does not differ unreasonably from the Government estimate, if any, award may be made to the firm whose proposal is low, without further negotiaiton.);

(13) Special provisions necessary for the particular procurement, relating to such matters as progress payments (see Defense Contract Financing Regulations, § 163–73 of this chapter), patent rights (see § 18.908 of this chapter), liquidated damages, Buy American Act (see § 18.-509–4 of this chapter), or procurement by barter (see § 4.503–5 of this chapter);

(14) Any applicable wage determinations of the Secretary of Labor (see Subpart G, Part 18 of this chapter);

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

(16) Factors other than price (including technical quality where technical proposals are requested), which will be given paramount consideration in the awarding of the contract;

(17) Information as to requirements for Certificate of Current Cost or Pricing Data (see § 3.807–3);

(18) Adequate statements of information required to enable evaluation of technical and financial capabilities, and, a statement covering special technical capabilities which the offeror must possess;

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

(20) Directions for obtaining copies of any documents, such as plans, drawings, and specifications, as well as information as to charge, if any, to be made for drawings and specifications (see § 16.401–2(c)(3)(ii)(b) of this chapter);

(21) The following notice shall be prominently set forth in the request for proposals:

Caution—Late Proposals. See the special provision in this solicitation entitled "Late Proposals."

(22) Description of information required to support proposed prices (subcontract structure, purchasing system, royalty, and cost and price information) (see Subpart H, Part 3, Subpart A, Part 9, and Part 23 of this chapter);

(23) A statement of small business set-asides;

(24) Required representations regarding small business status;

(25) Statutory cost limitations (see § 18.110 of this chapter);

(26) Provisions for performance of work by contractor, see §§ 2.201(b)(30) and 18.104 of this chapter);

(27) Estimated magnitude of the proposed construction, see § 18.109, where not provided in a preinvitation notice (see § 18.205 of this chapter);

(28) A statement as follows:

UNNECESSARILY ELABORATE CONTRACTOR'S PROPOSALS (AUGUST 1965)

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

(29) If the contract is to be conditioned on the availability of funds, a clear statement of such condition (see § 1.318 of this chapter);

(30) Such general contract provisions or conditions as are required by law or by this subchapter;

(31) [Reserved]

(32) When the procurement involves a set-aside for small business concerns, the following provision will be placed on the face of the solicitation form or on a cover sheet:

This is a _____% set aside for small business concerns. (October 1969)

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

(34) Requests for Proposals which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 1.307 of this chapter) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a ☐ DX _____ rating; ☐ DO _____ rating; ☐ DMS allotment number _____ (Contracting Officer check appropriate box or boxes) in accordance with the provisions of BDSA Regulation 2 and/or DMS Regulation 1. (October 1969)

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

(36) If the contract is pursuant to the Balance of Payments Program, the procedures in § 6.804 of this chapter are applicable;

(37) In accordance with § 6.1104 of this chapter, the provision set forth therein;

(38) Unless exempted by § 12.805 of this chapter from inclusion of the Equal Opportunity clause, the following provisions:

(A) On the face or cover sheet of the solicitation, these notices.

I. *Note the Affirmative Action Requirement of the Equal Opportunity Clause Which May Apply to the Contract Resulting From This Solicitation.*

II. *Note the Certification of Nonsegregated Facilities in This Solicitation.* Bidders, offerors and applicants are cautioned to note the "Certification of Nonsegregated Facilities" in the solicitation. Failure of a bidder or offeror to agree to the certification will render his bid or offer nonresponsive to the terms of solicitations involving awards of contracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause. (January 1969)

(B) *Certification of Nonsegregated Facilities.* (Applicable to contracts, subcontracts, and to agreements with applicants who are themselves performing federally assisted construction contracts, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause.)

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities. A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order on Elimination of Segregated Facilities, by the Secretary of Labor (32 F.R. 7439, May 19, 1967), must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). (March 1968)

(NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.)

(39) The applicable small business size standard (see §§ 1.701 and 1.703 of this chapter);

(40) If it is expected that the procurement will result in a fixed price contract for which cost or pricing data will not be obtained, the price representation provided in § 3.604–3(d) shall be set forth in a prominent place in the schedule;

(41) If pursuant to § 1.1504 (c), (d), or (e) of this chapter, options are to be evaluated for award, the applicable Evaluation of Options provision shall be inserted;

(42) [Reserved]

(43) Any requirement for royalty information to be furnished with the offer, proposal or quotation (see § 9.110(a) of this chapter);

(44) When the contract is for the purchase of a patented item for which the Government is a licensee (§ 1.304–3 of this chapter), include a provision substantially as follows:

The Government is obligated to pay a royalty applicable to the proposed procurement because of a license agreement between the Government and the patent owner. The patent number is _____ and the royalty rate is _____. If the bidder is the owner of, or a licensee under the patent, he may so state in his bid, otherwise his bid will be evaluated by adding to his bid an amount equal to the royalty.

(45) A statement on the first sheet or on a cover sheet of the Request for Proposals that:

Proposals must set forth full, accurate, and complete information as required by this request for proposal (including attachments). The penalty for making false statements in proposals is prescribed in 18 U.S.C. 1001.

(46) A statement of arrangements to be made for inspecting the site, including designation of the person or persons, if any, with whom such arrangements may be made and who will answer questions or furnish information;

(47) Information which may affect performance of the work such as boring samples, original boring logs, etc.;

(48) Information as to what utilities the Government will furnish during construction, when the contracting officer determines that any new utilities are adequate for the needs of both the Government and the contractor (See § 7.603–30 of this chapter);

(49) When DD Form 1660, Management Control Systems Summary List (see §§ 1.331 and 16.827–4 of this chapter) and the clause in § 7.104–50 of this chapter are to be included in the solicitation, the following:

MANAGEMENT CONTROL SYSTEMS SUMMARY LIST (OCTOBER 1969)

Note the attachment to this solicitation of DD Form 1660, Management Control Systems Summary List, and the contract clause entitled "Management Control Systems Requirements."

(50) If required by § 12.808–3 of this chapter, the Preaward Compliance Check Notice set forth in paragraph (b)(3)(xxxix) of this section.

(d) *Oral solicitations.* Oral solicitations shall be in accordance with the following:

(1) Oral solicitations are authorized for small purchases (see Subpart F of this part) and for the procurement of perishable subsistence.

(2) Oral solicitations, other than those described in subparagraph (1) of this paragraph, also are authorized in cases where the processing of a written solicitation would delay the furnishing of the supplies or services to the detriment of the Government. Examples of such circumstances may include those listed in § 3.202–2. However, oral solicitation is not to be considered justified solely because a high Issue Priority Designator has been assigned to the requirement. In addition to other applicable documentation requirements (see § 1.308 of this chapter), the record of contract actions above shall include a resume of the circumstances which justified use of an oral solicitation, item description, quantity, deliveries required, sources solicited, prices quoted (including name of individual contacted), date and time contacted, and the solicitation number provided the prospective sources. Should the issuance of the resulting contractual instrument be unduly delayed, the contract file shall be documented to describe the reasons for the delay and justify award based upon the oral solicitation. The oral method of solicitation, pursuant to this subparagraph, shall not be used without prior approval at a level higher than the contracting officer.

(3) Use of oral solicitation does not relieve the contracting officer from complying with other applicable portions of this subchapter, e.g., the appropriate requirements of paragraph (b) of this section, postaward notice of offerors (see § 3.508–3), price negotiation policies and techniques (see Subpart F of this part), and submission of same terms and conditions to all offerors.

§ 3.807–3 Cost or pricing data.

(a) The contracting officer shall require the contractor to submit, either actually or by specific identification in writing, cost or pricing data in accordance with § 16.206 of this chapter and to certify, by use of the certificate set forth in § 3.807–4, that, to the best of his knowledge and belief, the cost or pricing data he submitted was accurate, complete, and current prior to:

(1) The award of any negotiated contract (other than a letter contract) expected to exceed $100,000 in amount;

(2) The pricing of any modification to any formally advertised or negotiated contract, whether or not cost or pricing data was required in connection with the initial pricing of the contract, when the modification involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. (For example, the requirement applies to a $30,000 modification resulting from a reduction of $70,000 and an increase of $40,000, or as another example, when the modification results in no change in contract price because there is an increase of $200,000 and a reduction of $200,000. However, this requirement shall not apply when unrelated and separately priced changes for which cost or pricing data would not be required are included in the same modification for administrative convenience);

(3) The award of any negotiated contract not expected to exceed $100,000 in amount or any contract modification not expected to exceed $100,000 in amount to any formally advertised or negotiated contract whether or not cost or pricing data was required in connection with the initial pricing of the contract; *Provided,* The contracting officer considers that the circumstances warrant such action in accordance with paragraph (d) of this section;

unless the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The requirements under subparagraphs (1) and (2) of this paragraph may be waived in exceptional cases where the Secretary (or, in the case of a contract with a foreign government or agency thereof, the head of a procuring activity) authorizes such waiver and states in writing his reasons for such determination. Whenever a Certificate of Current Cost or Pricing Data is required, the applicable clause in § 7.104–29 of this chapter shall be included in the contract, and the appropriate clauses in §§ 7.104–41 and 7.104–42 of this chapter shall be used if required in accordance with those sections.

(b) (1) In addition, any contractor who is required to submit and certify cost or pricing data in accordance with paragraph (a) of this section shall be required with his own submission to submit, or procure the submission of, accurate, current and complete cost or pricing data, in accordance with § 16.206 of this chapter, from his prospective subcontractors in support of each subcontract cost estimate included in the contractor's submission whenever the contracting officer considers such subcontractor data necessary for good pricing of the prime contract, or, in any event, whenever such subcontractor cost estimates is either (i) $1 million or more, or (ii) both more than $100,000 and more than 10 percent of the contractor's proposed contract price; unless the contractor in his submission demonstrates to the satisfaction of the contracting officer that a prospective subcontract will be based on adequate price competition, or that a prospective subcontract estimate is based on an established catalog or market price of a commercial item sold in substantial quantities to the general public, or a price set by law or regulation. Except for subcontracts within subdivisions (i) or (ii) of this subparagraph, any such requirement for subcontractor cost or pricing data may be limited by the contracting officer to particular subcontract items or classes of items. However, in the case of subcontracts of $100,000 or less, any such requirement shall be subject to limitations comparable to those set forth in paragraph (e) of this section for contracts of $100,000 or less. Submission of subcontractor cost or pricing data from more than one subcontractor for each subcontract item shall not ordinarily be required: *Provided,* That the contractor's subcontract cost estimate is based upon the cost or pricing data of the subcontractor who is most likely ultimately to get the subcontract. Notwithstanding the foregoing, the contractor shall remain obligated to submit other contractor data pertaining to subcontract costs, including other subcontractor quotations, to the extent required by paragraph (a) of this section.

(2) Prospective subcontractor cost or pricing data when required shall be accurate, complete and current as of the same date specified in the contractor's certificate. The contractor shall be responsible for updating a prospective subcontractor's data to the above date from the time of original submission by the subcontractor. Failure by the contractor to submit or procure submission of subcontract cost or pricing data as above required may be cause for disqualification of the contractor from further consideration for award of the proposed contract except that when the contractor has generally complied with such subcontract cost or pricing data requirements, his failure to do so for particular subcontracts in exceptional cases may be excused by the contracting officer if the

contractor in his submission demonstrates to the satisfaction of the contracting officer that he has expended his best efforts to comply in all cases but has been unable to do so because of time limitations or other circumstances beyond the control of the contractor. Such excuse, except when limited to an allowance of additional time as provided in subdivision (i) of this subparagraph, shall be approved by the Head of a Procuring Activity or his sole designee. For each prospective subcontract so excused, the contracting officer shall either (i) allow additional time for submission of subcontract cost or pricing data up to the date of agreement upon the prime contract price; (ii) withdraw the requirement for such subcontract cost or pricing data if he deems that cost or pricing data or other information submitted by the contractor is adequate to support the subcontract estimate; (iii) reserve such subcontract item for future pricing by reaching agreement upon the contract price subject to a contract provision calling for adjustment of the contract price within a stipulated ceiling on the basis of subcontract or other cost or pricing data required to be submitted thereafter pursuant to paragraph (c) of this section or otherwise (see § 3.807–10(c)); (iv) consider another contract type; or (v) make such other arrangements as he deems appropriate to provide an adequate basis for agreement upon contract price. Also, for each subcontract so excused, the contractor shall remain obligated to obtain subcontractor cost or pricing data as provided in paragraph (c) of this section.

(3) The requirements under subparagraphs (1) and (2) of this paragraph, modified as appropriate to relate to a higher tier subcontractor rather than the prime contractor, shall apply to lower tier subcontracts under subcontracts for which subcontractor cost or pricing data is required by subparagraphs (1) and (2) of this paragraph.

(4) If the cost or pricing data required by paragraph (a) of this section is not adequate for the purpose, the contractor shall be required to support subcontract cost estimates below the minima set forth in paragraph (b)(1) (i) and (ii) of this section, by any additional data or information needed to establish a reasonable contract (not necessarily subcontract) price. In the last analysis, the contracting officer must satisfy himself that the negotiated contract price is reasonable. For this purpose, he should require whatever additional contractor or subcontractor data is reasonably necessary. See subparagraph (1) of this paragraph and paragraph (e) of this section.

(c) Any contractor who has been required to submit and certify cost or pricing data in accordance with paragraph (a) of this section shall also be required to obtain cost or pricing data from his subcontractors under the circumstances set forth in the appropriate clause in § 7.104–42 of this chapter, notwithstanding any prior submission from subcontractors pursuant to paragraph (b) of this section.

(d) When there is adequate price competition, cost or pricing data shall not be requested regardless of the dollar amount involved. As a general rule, cost or pricing data should not be requested when it has been determined that proposed prices are, or are based on, established catalog or market prices of commercial items sold in substantial quantities to the general public. Where, however, despite the willingness of a number of commercial purchasers to buy an item at such a catalog or market price, the purchaser (e.g., the contracting officer) finds that that price is not reasonable and supports such finding by an enumeration of the facts upon which it is based, cost or pricing data may be requested if necessary to establish a reasonable price: *Provided*, That such finding is approved at a level above the contracting officer. In addition, cost or pricing data may be requested, if necessary, where there is such a disparity between the quantity being procured and the quantity for which there is such a catalog or market price that pricing cannot reasonably be accomplished by comparing the two. Where an item is substantially similar to a commercial item for which there is an established catalog or market price at which substantial quantities are sold to the general public, but the offered price of the former is not considered to be "based on" the price of the latter in accordance with § 3.807–1(b)(2), any requirement for cost or pricing data should be limited to that pertaining to the differences between the items if this limitation is consistent with assuring reasonableness of pricing result.

(e) (1) Certified cost or pricing data shall not be requested prior to the award of any contract anticipated to be for $10,000 or less and generally should not be requested for modifications in those amounts. There should be relatively few instances where certified cost or pricing data and the inclusion of defective pricing clauses would be justified in awards between $10,000 and $100,000. In most such awards, the administrative costs will outweigh the benefits which might otherwise accrue from receipt of certified cost or pricing data; hence all other means of determining reasonableness of price should be utilized. When less than complete cost analysis (e.g., analysis of only specific factors) will provide a reasonable pricing result (see § 3.807–2(a)) on awards under $100,000 without the submission of complete cost or pricing data, the contracting officer shall request, without certification, only that data which he considers adequate to support the limited extent of the cost analysis required.

(2) Although cost or pricing data was requested in the solicitation, a certification of cost and pricing data shall not be requested in connection with the award of any contract of any dollar value where the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(f) "Cost of pricing data" as used in this subpart consists of all facts existing up to the time of agreement on price which prudent buyers and sellers would reasonably expect to have a significant effect on the price negotiations. The definition of cost or pricing data embraces more than historical accounting data; it also includes, where applicable, such factors as vendor quotations, nonrecurring costs, changes in production methods and production or procurement volume, unit cost trends such as those associated with labor efficiency, and make-or-buy decisions or any other management decisions which could reasonably be expected to have a significant bearing on costs under the proposed contract. In short, cost or pricing data consists of all facts which can reasonably be expected to contribute to sound estimates of future costs as well as to the validity of costs already incurred. Cost or pricing data, being factual, is that type of information which can be verified. Because the contractor's certificate pertains to "cost or pricing data", it does not make representations as to the accuracy of the contractor's judgment on the estimated portion of future costs or projections. It does, however, apply to the data upon which the contractor's judgment is based. This distinction between fact and judgment should be clearly understood.

(g) The requirement for submission of cost or pricing data is met when all accurate cost or pricing data reasonably available (see § 3.807–5(a)(1)) to the contractor at the time of agreement on price is submitted, either actually or by specific identification, in writing to the contracting officer or his representative. The distinction between the "submission" of cost or pricing data and the "making available" of records should be clearly understood. The mere availability of books, records, and other documents for verification purposes does not constitute submission of cost or pricing data.

§ 3.807–4 Certificate of current cost or pricing data.

When certification of cost or pricing data is required in accordance with § 3.807–3, a certificate in the form set forth below shall be included in the contract file along with the memorandum of the negotiation. The contractor shall be required to submit only one certificate which shall be submitted as soon as practicable after agreement is reached on the contract price.

CERTIFICATE OF CURRENT COST OR PRICING DATA

This is to certify that, to the best of my knowledge and belief, cost or pricing data as defined in ASPR 3–807.3(f) submitted, either actually or by specific identification in writing (see ASPR 3–807.3(g)), to the Contracting Officer or his representative in support of _____* are

*Describe the proposal, quotation, request for price adjustment or other submission involved, giving appropriate identifying number (e.g., RFP No. _____).

accurate, complete, and current as of _____**
(day) (month) (year)

Firm _____
Name _____
Title _____

_____***
(Date of execution)

§ 3.807–5 Defective cost or pricing data.

(a) Where any price to the Government must be negotiated largely on the basis of cost or pricing data submitted by the contractor, it is essential that the data be accurate, complete, and current and in appropriate cases so certified by the contractor or subcontractor (see §§ 3.807–3 and 3.807–4). If such certified cost or pricing data is subsequently found to have been inaccurate, incomplete or noncurrent as of the effective date of the certificate, the Government is entitled to an adjustment of the negotiated price, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. The clauses set forth in § 7.104–29 of this chapter give the Government in such a case an enforceable contract right to a price adjustment, that is, to a reduction in the price to what it would have been if the contractor had submitted accurate, complete and current data. They also give the Government a right to a price adjustment for defects in cost or pricing data submitted by a prospective or actual subcontractor and in some cases, for inaccurate data furnished by a contractor. In arriving at a price adjustment under a clause, the contracting officer should, after review of the record of the contract negotiation (see § 3.811), consider the following:

(1) The time when cost or pricing data was reasonably available to the contractor: Certain data such as overhead expenses and production records may not be reasonably available except on normal periodic closing dates. Also, the data on numerous minor material items each of which by itself would be insignificant may be reasonably available only as of a cutoff date prior to agreement on price because the volume of transactions would make the use of any later date impracticable. Furthermore, except where a single item is used in substantial quantity, the net effect of any changes to the prices of such minor items would likely be insignificant. Closing or cutoff dates should be included as a part of the data submitted with the contractor's proposal and should be updated by the contractor to the latest closing or cutoff dates, preceding agreement on price, for which such data is available. The contracting officer and contractor are encouraged to reach a prior understanding on criteria for establishing closing or cutoff dates, and to the extent possible the understanding should relate to an approved estimating system. Notwithstanding the foregoing, significant matters are important to contractor management and to Government and any related data within the contractor's organization or the organization of a subcontractor or prospective subcontractor would be expected to be current on the date of agreement on price and therefore will be treated as reasonably available as of that date. Although changes in the labor base or in prices of major material items are generally significant matters, no hard and fast rule can be laid down since what is significant can depend upon such circumstances as the size and nature of the procurement.

(2) In establishing that the defective data caused an increase in the contract price, the contracting officer is not expected to reconstruct the negotiation by speculating as to what would have been the mental attitudes of the negotiating parties if the correct data had been submitted at the time of agreement on price. In the absence of evidence to the contrary, the natural and probable consequence of defective data is an increase in the contract price in the amount of the defect plus related burden and profit or fee; therefore, unless there is a clear indication that the defective data was not used, or was not relied upon, the contract price should be reduced in that amount.

(3) As a general rule, understated cost or pricing data shall not be "set off" against overstated cost or pricing data in arriving at a price adjustment. However, where there is a question as to the accuracy of a single item of data which is an average or composite rate, overstatements in making up the rate may be set off by understatements for the purpose of correcting the rate submitted by the contractor. For example, when the contractor in his cost or pricing data submits an average rate for Class A Engineers and it is found that in the computation of the average rate the contractor has indicated that his highest price Class A Engineer was $20,000 when in fact it was only $18,000 and further where the contractor indicated that the price of his lowest paid Class A Engineer was $10,000 when in fact it was $12,000, these can be offset one against the other in recomputing the average or composite rate. Offsetting a Class A Engineer average or composite against a Class B Engineer average or composite is not permitted. Again, for example, if an overhead account had been overstated by reason of a failure to use the most recent available quarterly figures, the consequent downward price adjustment should be based on the net change in the total overhead account, including both the "minus" and "plus" elements. In addition, as a further exception to the general rule against setoff, overstated data (such as unit price) relating to a single item (such as cement) may be offset by understated data (such as quantity) relating to the same item. For example, if the historical data submitted is 100 feet of pipe at $1 a foot for a total of $100 but it should have been 50 feet at $2 a foot, setoff is permitted and no price adjustment is required. In any case, the contract price shall be adjusted only if the net adjustment is downward.

(b) If at any time prior to agreement on price the contracting officer learns through audit or otherwise that any cost or pricing data submitted is inaccurate, incomplete or noncurrent, he shall immediately call it to the attention of the contractor whether that defective data tends to increase or decrease the contract price. Thereafter, the contracting officer shall negotiate on the basis of any new data submitted, or on a basis which in his opinion makes satisfactory allowance for the incorrect data as he considers appropriate and shall reflect these facts in his record of negotiation.

(c) After award, if the contracting officer obtains information which leads him to believe that the data furnished may not have been accurate, complete or current, or if he considers that the data may not have been adequately verified as of the time of negotiation, he should request an audit to evaluate the accuracy, completeness and currency of such data. In the case of negotiated firm fixed-price contracts, postaward cost performance audits, pursuant to a clause set forth in § 7.104–41 of this chapter, shall be limited to the single purpose of determining whether or not defective cost or pricing data were submitted. Such audits shall not be for the purpose of evaluating profit-cost relationships, nor shall any repricing of such contracts be made because the realized profit was greater than was forecast, or because some contingency cited by the contractor in his submission failed to materialize—unless the audit reveals that the cost or pricing data certified by the contractor were, in fact, defective.

(d) Under the "Price Reduction for Defective Cost or Pricing Data" clauses set forth in § 7.104–29 of this chapter, the Government's right to reduce the prime contract price extends to cases where the prime contract price was increased by any significant sums because a subcontractor furnished defective cost or pricing data. In exercising the Government's rights in such cases, the contracting officer will consider the varying circumstances discussed below.

(1) In some instances, the prime contractor may have already reached agreement on price with a subcontractor before the prime contractor and the Government agree on a definitive price. This might occur, for example, if the prime contractor commenced performance under a letter contract or under an unpriced change order. In such cases the subcontractor's cost or pricing data must be submitted with the prime contractor's submission. If any such subcontractor data is subsequently found to be defective, the prime contract is subject to

**This date shall be the date when the price negotiations were concluded and the contract price was agreed to. The responsibility of the contractor is not limited by the personal knowledge of the contractor's negotiator if the contractor had information reasonably available (see § 3.807–5(a)) at the time of agreement, showing that the negotiated price is not based on accurate, complete and current data.

***This date should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

price adjustment in the same manner as would be the case if any other cost or pricing data submitted by the prime contractor proved to be defective.

(2) The Government and the prime contractor will normally agree on the price of a contract prior to final agreement on price between the prime contractor and his subcontractor. In such cases, the prime contract price will be based, in part, on subcontract cost estimates. The prime contractor will be expected to support his subcontract cost estimates with subcontractor cost or pricing data as provided in § 3.807–3(b). The prime contract price will be subject to adjustment on the basis of defective subcontractor cost or pricing data submitted prior to agreement on the prime contract price if:

(i) Such subcontractor data was not accurate, complete or current as of the date certified in the prime contractor's Certificate of Cost or Pricing Data, or in some cases, was not accurate as submitted by the subcontractor, and

(ii) The prime contract price was increased by a significant sum because of such defective subcontractor data.

Any adjustment in prime contract price due to defective subcontract data of a prospective subcontractor, where the subcontract was not subsequently awarded to the prospective subcontractor, will be limited to the amount (plus applicable overhead and profit markups) by which the actual subcontract price or actual cost to the contractor if not subcontracted, was less than the original subcontract cost estimate, provided the actual subcontract price was not affected by defective data.

(3) Under cost reimbursement type and under all fixed-price type contracts except FFP and FPE, increases in payments to subcontractors due to defective subcontractor cost or pricing data will be the basis for disallowance or nonrecognition of costs under the defective cost or pricing data clauses because the Government has a continuing and direct financial interest in such payments which is unaffected by the initial agreement on prime contract price. Although the action is taken under those price reduction clauses rather than under Part 15 of this chapter, as a practical matter the result is the same, i.e., the increased costs will be disallowed under cost type contracts or not considered as actual costs for final pricing of redeterminable or incentive type contracts. The action is taken under the price reduction clauses because, not only will the increased costs be disallowed or not considered as actual costs but also, the fixed fee or target profit included in the initial price may be subject to reduction in accordance with subparagraphs (1) and (2) of this paragraph.

(e) In some cases, as where the defective nature of a subcontractor data is only disclosed by Government audit, the information necessary to support a reduction in prime contract and subcontract prices may be available only from the Government. To the extent necessary to secure a prime contract price reduction, the contracting officer should make such necessary information available, upon request, to the prime contractor or appropriate subcontractors. However, if the release of such information would compromise military security or disclose trade secrets or other confidential business information, it shall be made available only under conditions that will fully protect it from improper disclosure, as may be prescribed by: The Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics), for the Army; the Naval Material Command for the Navy; the Office of the Assistant Secretary of the Air Force; and the Executive Director, Procurement and Production, for the Defense Supply Agency. Information made available pursuant to this paragraph shall be limited to that used as the basis for the prime contract price reduction.

(f) Inasmuch as price reductions under the Price Reduction for Defective Cost or Pricing Data clauses may involve subcontractors as well as the prime contractor, the contracting officer should give the prime contractor reasonable advance notice before making a determination to reduce the contract price under such clauses, in order to afford the prime contractor an opportunity to take any action deemed advisable by him, particularly in connection with any subcontracts that may be involved.

§ 3.807–10 Subcontracting considerations in cost analysis.

(a) The amount and quality of subcontracting may be a major factor influencing price. Since a large proportion of the procurement dollar is spent by prime contractors in subcontracting for work, raw materials, parts, and components, efficient purchasing practices by a contractor will contribute heavily toward efficient and economic production. While basic responsibility rests with the prime contractor for decisions to make or buy, for selection of subcontractors, and for subcontract prices and subcontract performance, the contracting officer must have adequate knowledge of these elements and their effect on prime contract prices. See § 3.807–3(b). Therefore, contractors' "make-or-buy" programs and proposed subcontracts should be reviewed in accordance with Subpart I of this Part and Part 23 of this chapter and the information from such review should be used in negotiating prime contract prices. Even though not specifically required by Subpart I of this part, the contracting officer should, where appropriate, elicit from the offeror or contractor information concerning:

* * * * *

§ 3.807–12 Estimated data prices (DD Form 1423).

* * * * *

(b) When data are required to be delivered under a contract, §§ 3.501(b)(2)(xiv) and (3)(xxxii) and 16.815 of this chapter require inclusion in the solicitation of DD Forms 1423, Contract Data Requirements List. The form and the provision included in the solicitation under § 3.501(b)(2)(xiv) and (3)(xxxii) request the offeror to state what portion of the total price is estimated to be attributable to the production or development of the listed data for the Government (not to the sale of rights in the data). However, offerors' estimated prices may not reflect all such costs, and different offerors may reflect these costs in a different manner, for the following reasons:

* * * * *

(c) The contracting officer shall assure to the extent practicable that the negotiated price does not include any amount for data which the contractor has submitted or is obligated to submit to the Government under another contract or subcontract, and that the successful offeror furnishes the certification required by the solicitation (see § 3.501(b)(2)(xiv) and (3)(xxxii)).

* * * * *

PART 7—CONTRACT CLAUSES

6. Sections 7.104–29, 7.104–41, 7.104–42, and 7.104–55 are revised; § 7.104–78 is revoked; in § 7.104–79, the section heading and the introductory text are revised; and §§ 7.204–48, 7.303–11, 7.403–13, 7.705–23, 7–902.28, and 7.1003–14 are revoked, as follows:

§ 7.104–29 Price reduction for defective cost or pricing data.

(a) The following clause shall be inserted in negotiated contracts which when entered into exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In addition, the contracting officer shall include this clause in other negotiated contracts for which he has obtained a certificate of current cost or pricing data in accordance with § 3.807–3(a)(3) of this chapter in connection with the initial pricing of the contract, or for which he has obtained partial cost or pricing data in accordance with § 3.807–3(e) of this chapter.

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (JANUARY 1970)

If any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because:

(i) The Contractor furnished cost or pricing data which was not complete, accurate and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(ii) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not complete, accurate and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(iii) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be complete, accurate and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not complete,

accurate and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(iv) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (i), (ii), or (iii) above, which was not accurate as submitted;

the price or cost shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor, provided the actual subcontract price was not affected by defective cost or pricing data.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the contractor and the subcontractor: *Provided*, That they are consistent with ASPR 23-203 relating to Disputes provisions in subcontracts. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

(b) Insert the following clause in all contracts, both formally advertised and negotiated, which when entered into exceed $100,000 except those containing the clause set forth in paragraph (a) of this section.

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA—PRICE ADJUSTMENTS (JANUARY 1970)

(a) This clause shall become operative only with respect to any modification of this contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of $100,000 unless the modification is priced on the basis of adequate competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The right to price reduction under this clause is limited to defects in data relating to such modification.

(b) If any price, including profit, or fee, negotiated in connection with any price adjustment under this contract was increased by any significant sums because:

(i) The Contractor furnished cost or pricing data which was not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(ii) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not complete, accurate and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(iii) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be complete, accurate and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not complete, accurate and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(iv) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (i), (ii), or (iii) above, which was not accurate, as submitted;

the price shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor, when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor: *Provided*, The actual subcontract price was not affected by defective cost or pricing data.

(NOTE: Since the contract is subject to reduction under the clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the contractor and the subcontractor: *Provided*, That they are consistent with ASPR 23-203 relating to Disputes provisions in subcontracts. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

(c) The requirement for inclusion of the clauses in this section in contracts with foreign governments or agencies thereof may be waived in exceptional cases by the head of a procuring activity, stating in writing his reasons for such determination.

§ 7.104-41 Audit and records.

(a) Insert the following clause only in firm fixed-price and fixed-price with escalation negotiated contracts which when entered into exceed $100,000 except where the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In addition, the contracting officer shall include this clause with appropriate reduction in the dollar amounts provided therein, in firm fixed-price and fixed-price with escalation negotiated contracts, not exceeding $100,000, for which he has obtained a certificate of current cost or pricing data in accordance with § 3.807-3(a)(3) of this chapter in connection with the initial pricing of the contract.

AUDIT (JANUARY 1970)

(a) For purposes of evaluating the accuracy, completeness and currency of cost or pricing data required to be submitted in conjunction with the negotiation of this contract or any modification to this contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of $100,000, the Contracting Officer, or his authorized representatives who are employees of the U.S. Government, shall—until the expiration of 3 years from the date of final payment under this contract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier—have the right to examine all books, records, documents, and other data of the Contractor related to the negotiation, pricing, or performance of this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(b) The Contractor agrees to insert this clause including this paragraph (b) in all subcontracts hereunder which when entered into exceed $100,000 so as to apply until the expiration of 3 years from the date of final payment under the subcontract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires first, unless the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. When so inserted, changes shall be made as follows: (i) In this paragraph (b), redesignate "The Contractor" as appropriate, and (ii) in paragraph (a) above add "of the Government prime contract" after "Contracting Officer"; and add, at the end of (a) above, the words, "*Provided*, That, in the case of any contract modification, such modification results from a modification to the Government prime contract." In each such excepted subcontract hereunder which when entered into exceed $100,000, the Contractor shall insert the following clause to apply until the expiration of 3 years from the date of final payment under the subcontract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier.

AUDIT—PRICE ADJUSTMENTS

(a) This clause shall become operative only with respect to any modification of this contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of $100,000 unless the modification is priced on the basis of adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation: *Provided*, That such modification to this contract results from a modification to the Government prime contract.

(b) For purposes of evaluating the accuracy, completeness and currency of cost or pricing data required to be submitted in conjunction with such contract modification, the Contracting Officer of the Government prime contract, or his authorized representatives who are employees of the U.S. Government, shall—until the expiration of 3 years from the date of final payment under this contract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier—have the right to examine all books, records, documents, and other data of the Contractor related to the negotiation, pricing or performance of this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The subcontractor agrees to insert this clause, including this paragraph (c), in all subcontracts hereunder which when entered into exceed $100,000.

(b) Insert the following clause in formally advertised contracts which are expected to exceed $100,000 when entered into; and in firm fixed-price and fixed-price with escalation negotiated contracts which when entered into exceed $100,000 when the price is based on adequate price competition, established

catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In negotiated contracts, delete from paragraph (b) of the clause the words "the Comptroller General of the United States".

AUDIT—PRICE ADJUSTMENTS (JANUARY 1970)

(a) This clause shall become operative only with respect to any modification of this contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of $100,000, unless the modification is priced on the basis of adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) For purposes of evaluating the accuracy, completeness and currency of cost or pricing data required to be submitted in conjunction with such a contract modification, the Contracting Officer, the Comptroller General of the United States, or any authorized representatives who are employees of the U.S. Government, shall—until the expiration of 3 years from the date of final payment under this contract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier—have the right to examine all books, records, documents, and other data of the Contractor related to the negotiation, pricing, or performance of this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The Contractor agrees to insert this clause, including this paragraph (c), in all subcontracts hereunder which when entered into exceed $100,000 so as to apply until the expiration of 3 years from the date of final payment under the subcontract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier. When so inserted, changes shall be made as follows: (i) In this paragraph (c), redesignate "The Contractor" as appropriate and (ii) in subparagraph (b) above add "of the Government prime contract" after "Contracting Officer"; and add, at the end of (a) above, the words, "*Provided*, That the modification to the subcontract results from a modification to the Government prime contract."

(c) Insert the following clause in any negotiated contract which is not firm fixed-price or fixed-price with escalation.

AUDIT AND RECORDS (JANUARY 1970)

(a) The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitute "records" for the purposes of this clause.

(b) The Contractor's plants, or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable times to inspection and audit by the Contracting Officer or his authorized representative. In addition, for purposes of evaluating the accuracy, completeness and currency of cost or pricing data required to be submitted in conjunction with the negotiation of this contract or any modification to the contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of $100,000, the Contracting Officer, or his authorized representatives who are employees of the U.S. Government, shall—until the expiration of 3 years from the date of final payment under this contract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier—have the right to examine all books, records, documents, and other data of the Contractor related to the negotiation, pricing or performance of this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The Contractor shall preserve and make available his records (i) until the expiration of 3 years from the date of final payment under this contract, or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier, and (ii) for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (A) or (B) below.

(A) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(B) Records which relate to (i) appeals under the "Disputes" clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) costs and expenses of this contract as to which exception has been taken by the Contracting Officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

(d) (1) The Contractor shall insert this clause, including the whole of this paragraph (d), in each subcontract hereunder that is not firm fixed-price or fixed-price with escalation. When so inserted, changes shall be made as follows: (i) Redesignate "The Contractor" as appropriate; (ii) add "of the Government prime contract" after "Contracting Officer" in (b) above; and (iii) substitute "the Government prime contract" in place of "this contract" in (B) of paragraph (c) above.

(2) The Contractor shall insert the following clause in each firm fixed-price or fixed-price with escalation subcontract hereunder which when entered into exceeds $100,000, except those subcontracts covered by subparagraph (3) below.

AUDIT—

(a) For purposes of evaluating the accuracy, completeness and currency of cost or pricing data required to be submitted in conjunction with the negotiation of this contract or any modification of this contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of $100,000, the Contracting Officer of the Government prime contract, or his authorized representatives who are employees of the U.S. Government, shall—until the expiration of 3 years from the date of final payment under this contract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier—have the right to examine all books, records, documents, and other data related to the negotiation, pricing or performance of this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(b) The subcontractor agrees to insert this clause including this paragraph (b) in all subcontracts hereunder which when entered into exceed $100,000 unless the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(3) The Contractor shall insert the following clause in each firm fixed-price or fixed-price with escalation subcontract hereunder which when entered into exceeds $100,000 where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

AUDIT—PRICE ADJUSTMENTS

(a) This clause shall become operative only with respect to any modification of this contract, which involves aggregate increases and/or decreases in costs plus applicable profits in excess of $100,000 unless the modification is priced on the basis of adequate price competition, established catalog, or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation: *Provided*, That such modification to this contract must result from a modification to the Government prime contract.

(b) For purposes of evaluating the accuracy, completeness and currency of cost or pricing data required to be submitted in conjunction with a contract modification, the Contracting Officer of the Government prime contract, or his authorized representatives who are employees of the U.S. Government, shall—until the expiration of 3 years from the date of final payment under this contract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever is earlier—have the right to examine all books, records, documents, and other data related to the negotiation, pricing, or performance of this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The subcontractor agrees to insert this clause including this paragraph (c) in all subcontracts hereunder which when entered into exceed $100,000 so as to apply until the expiration of 3 years from the date of final payment of the subcontract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier.

In cost-reimbursement type contracts that have separate periods of performance and that are to include, in the Examination of Records clause perscribed by § 7.203–7, the alternate subparagraph (a)(4) which is set forth in § 7.203–7(b), the clause set forth in this paragraph shall be modified by adding the following to paragraph (c) thereof:

Notwithstanding the foregoing, the Contractor's obligation to preserve and make available his records shall not extend beyond the period of his like obligation under the "Examination of Records" clause of this contract.

Such contracts may be administered as indicated in § 7.203–7(b).

(d) The requirement for inclusion of the clauses in paragraphs (a) and (b) of this section may be waived for contracts with foreign governments or agencies thereof under circumstances where the requirement for the clauses in §§ 7.104–29 and 7.104–42 may be waived.

(e) The following clause shall be inserted only in those firm fixed-price contracts on which Cost Information Reports are to be submitted.

AUDIT—COST INFORMATION REPORTS (SEPTEMBER 1968)

(a) The Contracting Officer or his authorized representative shall, until the expiration of 3 years from the date of final payment under this contract, have the right

to examine policies, procedures, books, records, and documents of the Contractor in order to (i) evaluate the effectiveness of these policies and procedures for producing Cost Information Reports data, and (ii) selectively test the data contained in Cost Information Reports.

(b) The Contractor shall insert the substance of this clause, except this paragraph, in any subcontract hereunder calling for the furnishing of Cost Information Reports.

§ 7.104–42 Subcontractor cost or pricing data.

(a) The following clause shall be inserted in all negotiated contracts expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The contracting officer may include this clause, with appropriate reduction in the dollar amounts included therein, in other negotiated contracts where a Certificate of Current Cost or Pricing Data is required (see 3–807.3(a)(iii)) in connection with initial pricing of the contract.

SUBCONTRACTOR COST OR PRICING DATA (JANUARY 1970)

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) Prior to the award of any subcontract the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000 except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds $100,000 when entered into except where the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder in excess of $100,000, the Contractor shall insert the substance of the following clause:

SUBCONTRACTOR COST OR PRICING DATA—PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) Prior to award of any subcontract, the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000 when entered into.

(b) Insert the following clause in all contracts, both formally advertised and negotiated, which exceed $100,000 other than those described in paragraph (a) of this section:

SUBCONTRACTOR COST OR PRICING DATA—PRICE ADJUSTMENTS (JANUARY 1970)

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. The requirements of this clause shall be limited to such modifications.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances: (i) Prior to the award of any subcontract the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract which exceeds $100,000.

(c) The requirement for inclusion of the clauses in this section in contracts with foreign governments or agencies thereof may be waived in exceptional cases by the head of a procuring activity, stating in writing his reasons for such determination.

§ 7.104–55 First article approval.

(a) In accordance with § 1.1903 of this chapter, insert the following clause when the contractor is responsible for conducting first rate article approval test:

FIRST ARTICLE APPROVAL—CONTRACTOR TESTING (SEPTEMBER 1969)

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

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

(Set forth address of office to receive the report.)

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

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

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

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

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

(g) Prior to approval of the first article, the acquisition of materials or components

for, or the commencement of production of, the balance of the contract quantity shall be at the sole risk of the Contractor; and costs incurred on account thereof shall not be allocable to this contract (i) for the purpose of progress payments prior to approval of the first article, if this contract contains the clause entitled "Progress Payments," or (ii) for the purpose of termination settlements, if this contract is terminated for the convenience of the Government prior to approval of the first article.

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

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

(b) In accordance with § 1.1903 of this chapter, insert the following clause when the Government is responsible for conducting first article approval test:

FIRST ARTICLE APPROVAL—GOVERNMENT TESTING (SEPTEMBER 1969)

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

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

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

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

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

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

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

(h) Prior to approval of the first article, the acquisition of materials or components for, or the commencement of production of, the balance of the contract quantity shall be at the sole risk of the Contractor, and costs incurred on account thereof shall not be allocable to this contract (i) for the purpose of progress payments prior to approval of the first article, if this contract contains the clause entitled "Progress Payments," or (ii) for the purpose of termination settlements, if this contract is terminated for the convenience of the Government prior to approval of the first article.

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

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

(c) In accordance with § 1.1902(c) of this chapter, the following paragraph may be substituted for paragraph (g) of the clause in paragraph (a) of this section or paragraph (h) of the clause in paragraph (b) of this section.

(g) or (h) Prior to approval of the first article(s), the Contractor may, upon written authorization by the Contracting Officer, acquire specific materials or components or commence production to the extent essential to meet production quantity delivery requirements. Until first article approval is granted, only costs for the first article and costs incurred in accordance with such authorization shall be allocable to this contract (i) for the purpose of progress payments if this contract contains a clause entitled "Progress Payments," or (ii) for the purpose of termination settlements, if this contract is terminated for the convenience of the Government. In the event first article tests reveal deviations from contract requirements, the Contractor shall, at the location designated by the Government, make the required changes in, or replace all items manufactured under this contract, at no change in contract price.

§ 7.104–73 Health, safety, and accident prevention. [Revoked]

§ 7.104–79 Safety precautions for ammunition and explosives.

The following clause shall be inserted in all contracts which may involve the development, testing, storage, manufacture, modification, renovation, demilitarization, packaging, transportation, handling, disposal, inspection, repair, or other use of ammunition and explosives. The terms "ammunition" and "explosives" exclude inert components containing no explosives, active chemicals or pyrotechnics.

* * * * *

§ 7.204–48 Health, safety, and accident prevention. [Revoked]

§ 7.303–11 Health, safety, and accident prevention. [Revoked]

§ 7.403–13 Health, safety, and accident prevention. [Revoked]

§ 7.705–23 Health, safety, and accident prevention. [Revoked]

§ 7.902–28 Health, safety, and accident prevention. [Revoked]

§ 7.1003–14 Health, safety, and accident prevention. [Revoked]

PART 12—LABOR

7. Sections 12.806(b), 12.808–2(a) and 12.808–3(b) are revised to read as follows:

§ 12.806 Segregated facilities.

* * * * *

(b) *Certification by prime contractors and subcontractors.* Prior to the award of any non exempt Government contract or subcontract or Federally assisted construction contract or subcontract, each prospective prime contractor shall submit as part of his bid or offer, and each prime contractor and subcontractor shall require each nonexempt subcontractor to submit the certification set forth in § 2.201(a)(2)(vii) of this chapter. See also §§ 2.201(b)(25), 3.501(b)(2)(xx), and 3.501(c)(38) of this chapter.

§ 12.808–2 Preaward on site review of formally advertised supply contracts of $1 million or more.

(a) Each invitation for bids for a supply contract estimated to amount to $1 million or more shall contain the statement in § 2.201(a)(3)(x) of this chapter advising bidders that prior to the award of a contract in the amount of $1 million or more resulting from the invitation, the proposed contractor, and his first tier subcontractors with subcontracts of $1 million or more, will be subject to an EEO Compliance Review.

* * * * *

§ 12.808–3 Preaward compliance check of nonexempt contracts.

* * * * *

(b) The CCO concerned shall review the available information relative to the prospective prime contractor's and subcontractor's equal opportunity compliance status and shall notify the PCO within 10 working days of the request whether, on the basis of the check, the contractor and his known subcontractors are considered to be eligible for award in terms of compliance with the EEO clause. If deficiencies are found, the CCO shall notify the PCO within 10 working days of the request, of any deficiencies found to exist. A copy of such deficiency report shall be forwarded to the Director, OFCC, by DCAS–CCO. If the PCO is not notified within the 10-day period and the CCO does not request an extension of time, the PCO may proceed with the award.

* * * * *

PART 15—CONTRACT COST PRINCIPLES AND PROCEDURES

8. Section 15.203(d) and the last sentence in paragraph (c) of § 15.205–41 are revised, as follows:

§ 15.203 Indirect costs.

* * * * *

(d) The method of allocation of indirect costs must be based on the particular circumstances involved. The method shall be in accord with those generally accepted accounting principles which are applicable in the circumstances. The contractor's established practices, if in accord with such accounting principles, shall generally be acceptable. However, the method used by the contractor may require reexamination when:

(1) No change,

(2) Any significant change occurs in the nature of the business, the extent of subcontracting, fixed asset improvement programs, the inventories, the volume of sales and production, manufacturing processes, the contractor's products, or other relevant circumstances; or

(3) Indirect cost groupings developed for a contractor's primary location are applied to offsite locations. Separate cost groupings for costs allocable to offsite locations may be necessary to permit equitable distribution of costs on the basis of the benefits accruing to the several cost objectives.

* * * * *

§ 15.205–41 Taxes.

* * * * *

(c) * * * Interest and penalties incurred by a contractor by reason of the nonpayment of any tax at the direction of the contracting officer or by reason of the failure of the contracting officer to issue timely direction after prompt request therefor, are also available.

* * * * *

PART 16—PROCUREMENT FORMS

9. Sections 16.101, 16.101–1 (a), (b), and (c), 16.101–2(a), 16.102, 16.102–1, 16.102–2(b)(3), and 16.102–3 (a) and (b)(1) are revised, as follows:

§ 16.101 Forms for Advertised Supply or Services Contracts (Standard Forms 33, 33A,[1] 32,[1] 36, 30, and 26 and DD Form 1707).

§ 16.101–1 General.

The following contract forms shall be used in effecting procurements of supplies or services by formal advertising:

(a) Solicitation, Offer, and Award (Standard Form 33), its reverse (Representations, Certifications and Acknowledgements) and Information to Offerors (DD Form 1707), which is printed on blue paper and shall not be reproduced locally;

(b) Solicitation Instructions and Conditions (Standard Form 33A);

(c) General Provisions (Supply Contract) (Standard Form 32, June 1964 Edition) (only when procuring supplies);

* * * * *

§ 16.101–2 Conditions for use.

(a) The Solicitation, Offer and Award (Standard Form 33) shall be prepared in accordance with § 2.201 of this chapter. One copy of Standard Form 33A and one copy of DD Form 1707 shall accompany each copy of Standard Form 33. Offerors shall be requested to return not more than three signed copies of their offers.

* * * * *

§ 16.102 Forms for Negotiated Supply or Services Contracts (Standard Forms 18, 26, 30, 32,[2] 33, 33A,[2] and 36; DD Forms 1665, 1706 and 1707; DD ASPR Forms 748 and 1270).

§ 16.102–1 Request for Quotation (Standard Form 18) and Information to Quoters (DD Form 1706).

(a) *General.* Standard Form 18 is authorized and DD Form 1706 is prescribed for obtaining price, cost, delivery, and related information from suppliers. DD Form 1706, which is printed on pink paper, shall not be reproduced locally.

(b) *Conditions for use*—(1) *Procurements in excess of $2,500.* Standard Form 18 is authorized and DD Form 1706 is prescribed for use in negotiated procurements in excess of $2,500 (other than simplified purchases made in accordance with Subpart F, Part 3 of this chapter) when it appears reasonably certain that the procurement will be consummated by (i) a fixed-price contract involving negotiation or (ii) a cost-reimbursement contract. Continuation Sheet (Standard Form 36) may be used as required. Two copies of Standard Form 18 shall be sent to each prospective supplier and he shall be requested to return only one signed copy. One copy of DD Form 1706, Information to Quoters, shall accompany Standard Form 18.

(2) *Procurements not in excess of $2,500.* Standard Form 18 may be used for negotiated procurements of $2,500 or less (including purchase orders) and for other simplified purchases made in accordance with Subpart F, Part 3 of this chapter when written solicitations (other than by telegram) of quotations are required. (See § 3.608–2(c)(1) of this chapter for use of DD Form 1155 as a request for quotations.) Two copies of Standard Form 18 shall be sent to each prospective supplier and he shall be requested to return only one signed copy. A quotation submitted on this form or on DD Form 1155 is not to be construed as an offer which can be accepted by the Government to form a binding contract. Therefore, issuance by the Government of a purchase order pursuant to a supplier's quotation does not constitute a contract, but the purchase order is an offer by the Government to the supplier to buy certain goods or services upon specified terms and conditions. DD Form 1706 shall not be used for procurements not in excess of $2,500.

§ 16.102–2 Award/Contract (Standard Form 26).

* * * * *

(b) *Conditions for use.* * * *

(3) Procurements for which special contract forms are prescribed by this subchapter (for example, §§ 16.503, 16.504, and 16.505);

* * * * *

§ 16.102–3 Solicitation, Offer, and Award (Standard Form 33).

(a) *General.* Except for procurement of subsistence, the following forms are prescribed for use under the conditions set forth in paragraph (b) of this section in effecting negotiated fixed-price procurement of supplies or nonpersonal services:

(1) Solicitation, Offer, and Award (Standard Form 33), its reverse side (Representations, Certifications, and Acknowledgements), and Information to Offerors (DD Form 1707);

(2) Solicitation Instructions and Conditions (Standard Form 33A);

(3) General Provisions (Supply Contract) (Standard Form 32) (only when procuring supplies);

(4) Any other forms containing contract provisions which are prescribed by ASPR or departmental procedures;

(5) Continuation Sheet (see § 16.101–2(d));

(6) Amendment of Solicitation/Modification of Contract (Standard Form 30) when needed (see § 16.103); and

[1] On Standard Form 32, June 1964 edition, substitute the following ASPR clauses in Parts 2 and 7 of this chapter: § 7.103–6 for clause 6, § 7.104–15 for clause 10, § 7.103–11 for clause 11, § 7.103–23 for clause 13, § 7.104–3 for clause 14, § 7.103–18(a) for clause 18, and § 7.104–20(a) for clause 22. On Standard Form 33A, July 1966 edition, substitute the notice in § 2.306 for paragraph 8 and the clause in § 7.103–14 for paragraph 9(b).

[2] For ASPR clause substitutions on Standard Form 32, June 1964 edition, and Standard Form 33A, July 1966 edition, see footnote to § 16.101. On DD ASPR Form 748, June 1968 edition, substitute the following ASPR clauses in Part 7 of this chapter: § 7.203–7 for clause 5, § 7.203–10 for clause 8, § 7.203–11 for clause 9, § 7.103–18(a) for clause 15, § 7.203–21 for clause 18, § 7.104–20(a) for clause 23, § 7.104–41(c) for clause 26, § 7.104–29(a) for clause 27, § 7.104–31(b) for clause 38, § 7.104–20(b) for clause 40, and § 7.104–39 for clause 41.

(7) Award/Contract (Standard Form 26) when needed.

(b) *Conditions for use.* (1) The above forms (together with authorized contract provisions) shall be used in connection with the negotiation of fixed-price contracts for supplies or nonpersonal services when it appears desirable to commence negotiations by soliciting written offers which, if there is written acceptance by the Government, would create a binding contract without further action. Standard Form 33A and DD Form 1707 shall be used as set forth in § 16.101–2(a). Prospective offerors shall be requested to return not more than three signed copies of their offers.

* * * * *

10. Sections 16.104–1, 16.104–2, 16.104–3, and 16.104–4 are revised; new § 16.104–5 is added; and § 16.401–1(f) is revised, as follows:

§ 16.104–1 General.

The following information is applicable to all of the forms discussed in this section.

(a) *Codes.* The Department of Defense and contractor organizational entity address codes are those to be prescribed by the Office of the Assistant Secretary of Defense (Comptroller). Entries shall be made in accordance with the Defense Organization Entity System (DOES).

(b) *Dates.* All date entries shall be constructed with a two-position numeric year; three-position alpha month, and a two-position numeric day, e.g., 68NOV06.

(c) *Self-explanatory blocks.* Self-explanatory blocks are not discussed.

(d) *Uniform Contract Format (UCF).* A Uniform Contract Format (UCF) consisting of a standard table of contents and a standard location for all provisions under applicable section headings is set forth in the instructions herein. The table of contents is required in written solicitations and contracts (excluding orders under basic ordering agreements). Placement of provisions under applicable section headings is required in written solicitations, solicitation amendments, awards under solicitations, contracts (including contracts under basic agreements), and contract modifications. These UCF instructions do not apply to:

(1) Small purchases and other simplified purchase agreements;

(2) Basic agreements;

(3) Preinvitation notices;

(4) The first step of two-step formal advertising;

(5) Construction and architect-engineer contracts;

(6) Ship construction including shipbuilding, conversion and repair;

(7) Procurements for which special contract forms inconsistent herewith are prescribed by this regulation, e.g., those prescribed by Subpart E of this part; or

(8) Procurements of subsistence.

(e) *Identification of contract type.* When forms discussed in this paragraph are prepared for execution as contract documents, or when the Standard Form 30 is being used as a contract modification document, the type of the contract shall be identified by inserting in the title block the alpha code corresponding to the types described as follows:

Code	*Type of contract*
A	Fixed-Price Redetermination, Type A.
B	Fixed-Price Redetermination, Type B.
C	Fixed-Price Redetermination, Other.
J	Firm Fixed-Price.
K	Fixed-Price With Escalation.
L	Fixed-Price Incentive (with performance incentive).
M	Fixed-Price Incentive (without performance incentive).
R	Cost-Plus Award Fee.
S	Cost.
T	Cost-Sharing.
U	Cost-Plus-a-Fixed Fee.
V	Cost-Plus-Incentive Fee (with performance incentive).
W	Cost-Plus-Incentive Fee (without performance incentive).
Y	Time and Materials.
Z	Labor-Hour.

§ 16.104–2 Solicitation, Offer, and Award (Standard Form 33).

Instructions for block entries are as follows:

Block No.	*Title and/or instructions*
2	*Solicitation Number.*—For Small Business Restricted Advertising and other types of restricted advertising, the box "Advertised (IFB)" shall be checked after insertion of the appropriate Procurement Instrument Identification number.
9	*Time for receipt of offers.* Date, hour, and place of opening. Prevailing local time shall be used. Timing by the 24-hour clock shall not be used except where customary in the industry. The exact location of the depository, including the room and building numbers, and a statement that hand-carried offers must be deposited therein. (See § 2.202–1 of this chapter concerning bidding time for formally advertised procurements.)
10–15	The following UCF table of contents, with the applicable sections checked, shall be set forth immediately below Block 9 so as to replace the word "Schedule" and to replace Blocks 10 through 15, including the headings thereof:

TABLE OF CONTENTS

THE FOLLOWING CHECKED SECTIONS ARE CONTAINED IN THE CONTRACT

(X)	Sec.	Page
	PART I—GENERAL INSTRUCTIONS	
	A Cover Sheet.	
	B Contract Form and Representations, Certifications, and Other Statements of Offeror.	
	C Instructions, Conditions, and Notices to Offerors.	
	D Evaluation & Award Factors.	
	PART II—THE SCHEDULE	
	E Supplies/Services & Prices.	
	F Description/Specifications.	
	G Preservation/Packaging/Packing.	
	H Deliveries or Performance.	
	I Inspection & Acceptance.	
	J Special Provisions.	
	K Contract Administration Data.	

TABLE OF CONTENTS—Continued

(X)	Sec.	Page
	PART III—GENERAL PROVISIONS	
	L General Provisions.	
	PART IV—LIST OF DOCUMENTS AND ATTACHMENTS	
	M List of Documents and Attachments.	

When a particular section or sections are not necessary (as for example, sections F and G are not necessary because part numbers, FSNs, brief item descriptions and/or preservation and packaging information in section E provide sufficient descriptive details), the unnecessary sections should not be checked.

Block No.	*Title and/or instructions*
25	Although Small Business Restricted Advertising and other types of restricted advertising are to be treated as advertised procurements for the purpose of classification in Block 2, such procurements are negotiated procurements (see § 1.706–2 of this chapter), and require the insertion of the appropriate negotiation authority in Block 25.
26	*Administered By*—In lower right-hand corner, insert the pre-award survey serial number if survey was performed; if "none," so state.

§ 16.104–3 Award/Contract (Standard Form 26).

Instructions for block entries are as follows:

Block No.	*Title and/or instructions*
2	*Effective Date*—Not applicable to formal advertising. For negotiated procurements, see § 16.102–2(h).
6	*Administered By*—In lower right-hand corner, insert the pre-award survey serial number if survey was performed; if "none," so state.
9	*Discount for Prompt Payment*—Percentages will be expressed in whole numbers and decimals; e.g., 3.25 percent—10 days, 0.50 percent—20 days.
11	*Ship To/Mark For*—Multiple delivery points shall be shown in Section H of the UCF and this block annotated to that effect. Any "Mark For" in-the-clear or DOES coded address for ultimate consignee shall be entered in this block.
15–20	When the contract does not otherwise contain a UCF table of contents, the UCF table of contents set forth in § 16.104–2, with the applicable sections checked, shall be set forth immediately below Block 14 so as to replace Blocks 15 through 20, including the headings. Section entries may commence immediately below the table of contents or on the first page of the Continuation Sheet (Standard Form 36). In either event, all provisions shall be located under applicable UCF section headings.

Block No.	Title and/or instructions
16	*Supplies/Services*—When used as an acceptance, only the item numbers of the solicitation need be set forth. Any modifications made by the offeror to a solicitation which are accepted by the Government will be set forth. When entries in addition to item numbers are set forth, they shall be set forth under appropriate UCF section headings (see § 16.104–2) from the applicable solicitation document. A UCF table of contents shall not be set forth when the form is used as an acceptance.
22	If the form is being used as a negotiated bilateral contract pursuant to receipt of quotations on Request for Quotations (Standard Form 18) or informal means, and subsequent negotiations, if any, the box shall be checked and contractor shall be required to sign this document and return the prescribed number of copies to the issuing office.
26	If this form is being used as an acceptance (award) pursuant to receipt of a firm offer on Solicitation, Offer, and Award (Standard Form 33), the box shall be checked and contractor will not be required to sign this document.

§ 16.104–4 Amendment of Solicitation/Modification of Contract (Standard Form 30).

Instructions for block entries are as follows:

Block No.	Title and/or instructions
2	*Effective Date*—For an amendment of a Solicitation, or for a Change Order or an Administrative Change, the effective date shall be the issue date of such amendment, Change Order, or Administrative Change. For a Supplemental Agreement, the effective date shall be the date agreed to by the contracting parties. See § 16.102–2(h).
8	Check the appropriate block and in the corresponding blanks insert number and date of original Solicitation, Contract, or Order.
12	Amendments or modifications shall be set forth under appropriate UCF section headings (see §§ 16.104–1 and 16.104–2) from the applicable solicitation or contract document. A UCF table of contents shall not be set forth.
13	If the modification is a Change Order (11(a)) or Administrative Change (11(b)), the first box in this block shall be checked and contractor's signature will not be required. If the modification is a Supplemental Agreement (11(c)), contractor's signature will be required, the second box shall be checked and the number of copies to be returned to issuing office shall be inserted.
17	Contracting Officer's signature is not required when amending a solicitation.

§ 16.104–5 Request for Quotations (Standard Form 18).

Instructions for block entries are as follows (applicable only when UCF is used):

Block No.	Title and/or instructions
11–16	The UCF table of contents set forth in § 16.104–2, with the applicable sections checked, shall be set forth immediately below Block 10 so as to replace the word "Schedule" and replace Blocks 11 through 16, including the headings. Section entries may commence immediately below the Table of Contents or they may commence on the first Continuation Sheet (Standard Form 36). In either event, all provisions shall be located under applicable UCF section headings.

§ 16.401–1 General.

* * * * *

(f) Standard Form 22—Instructions to Bidders (Construction Contract). The notice set forth in § 2.201(b)(43) of this chapter shall be substituted for the present clause 7, Late Bids and Modifications or Withdrawals.

* * * * *

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

11. Section 18.202(a) is revised to read as follows:

§ 18.202 Preparation of invitation for bids.

(a) Forms used to invite bids are prescribed in Subpart D, Part 16 of this chapter. Invitations for bids shall contain the information required by § 2.201(b) of this chapter.

* * * * *

PART 19—TRANSPORTATION

12. Sections 19.202(b) and 19.204(a)(1) are revised; in § 19.206 the last sentence in paragraph (a) and the last sentence in paragraph (b) are revised; § 19.208–1(b) is revised; in § 19.208–2, the introductory text of paragraph (b) and all of paragraph (c) are revised; and in § 19.208–4, the introductory text of paragraph (a) is revised, as follows:

§ 19.202 Commodity description—freight classification.

* * * * *

(b) When the item being procured is known to be new to the supply system, nonstandard, or a modification of previously shipped items such that a different freight classification may apply (e.g., contain different materials, ingredients, changed weight, cube, configuration, etc.), the provision in § 2.201(a)(2)(xi) of this chapter shall be included in a solicitation which will or which may result in an f.o.b. origin contract, since prospective contractors may have established an official freight classification description which can be applied to it and which may result in lower transportation costs to the Government.

* * * * *

§ 19.204 Consignment and marking instructions.

(a)(1) Complete consignment and marking instructions, to the extent that they are known at the time the contract is awarded, shall be included in contracts to assist in insuring that supplies will be delivered to proper destinations without delay (see § 16.821 of this chapter). When complete consignment information is not initially known, additional instructions or amendments thereto shall be furnished by the procuring contracting officer as soon as such information becomes known, using Standard Form 30. Consignment instructions shall include, as a minimum, the clear text and coded MILSTRIP data as follows:

(i) Department of Defense organizational entity code of consignee and clear text identification of consignee and destination;

(ii) Project code, when applicable;

(iii) Issue priority designator (IPD);

(iv) Required delivery date (RDD); and

(v) Coded MILSTRIP document number, demand/suffix code, a supplementary address and signal code.

Non-MILSTRIP shipments shall include data similar to subdivisions (i) through (iv) of this subparagraph, and the applicable portion of subdivision (v) of this subparagraph, together with the notation "Non-MILSTRIP."

* * * * *

§ 19.206 Transit arrangements.

(a) * * * When a requirement exists for transit arrangements within the continental United States, the solicitation shall include the provision in § 2.201(a)(4)(v) of this chapter.

(b) * * * When supplies are of such nature, or it is the custom of the trade that bidders may have potential transit credits available, the provision in § 2.201(a)(2)(xii) of this chapter "Transportation Transit Privilege Credits," shall be included in the solicitation.

§ 19.208–1 General.

* * * * *

(b) The provision in § 2.201(a)(2)(xiv) of this chapter shall be included in the solicitation when the supplies are to be purchased in accordance with § 19.213–1 for ultimate delivery to known destinations outside the United States, and it has been determined that other ports, in addition to a primary port, can be used.

§ 19.208–2 F.O.B. origin.

* * * * *

(b) Solicitations which include the clause in § 7.104–70 of this chapter may include the substance of the provision in § 2.201(a)(2)(xiii) of this chapter when

it is believed that a prospective contractor is likely to include in his f.o.b. origin price a contingency to compensate for what may be for him an unfavorable routing condition which the Government has the option to specify at the time of shipment. Such routing condition (e.g., delivery to rail car, wharf, etc.) due to the location of the prospective contractor's plant, lack of rail siding, etc., impose on him a substantial expense above his "at plant" or "commercial shipping point" price. Accordingly, the provision in § 2.201(a)(2)(xiii) of this chapter is intended to permit prospective contractors to state in bids or offers a reimbursable differential which represents their cost of bringing the supplies to any f.o.b. origin place of delivery at the time of shipment by the Government. The provision is appropriate if:

* * * * *

(c) Land methods of transportation by regulated common carrier are the normal means of transportation used by the Government between points in the continental United States. Accordingly, the provision in § 2.201(a)(4)(vi) of this chapter shall be included in f.o.b. origin solicitation to establish the means the Government will use in applying transportation costs for evaluation. However, when it is appropriate to use other methods of transportation in evaluating bids or proposals, e.g., air, pipeline, or barge and ocean tanker for bulk commodities, the provision may be modified accordingly.

§ 19.208–4 Destination unknown.

(a) When the exact destination of the supplies to be purchased is not known, but the general location of the expected users can be reasonably established, the purchase request shall designate a place or places as the tentative point(s) to which transportation costs will be computed, stating estimated quantities for each tentative destination. The solicitation shall provide that bids or proposals shall be submitted f.o.b. origin only (see § 19.104–2(c)(1)(ii) and that shipment shall be made on Government bills of lading. The clause contained in § 7.104–70 of this chapter and the provisions of § 2.201(a)(4)(vii) and (viii) of this chapter shall be included to:

* * * * *

13. Sections 19.209, 19.210, 19.212, and 19.213–1(d) are revised to read as follows:

§ 19.209 Required shipping weights.

Solicitations which may result in f.o.b. origin contracts shall include the provisions in § 2.201(a)(4)(viii) of this chapter. This will provide agreement as to appropriate freight costs for evaluation of bids or proposals, and assure that contractors produce economical shipments of agreed size (see § 19.208–2(a)).

§ 19.210 Guaranteed shipping weights and dimensions.

The provision in § 2.201(a)(2)(x) of this chapter shall be included in the solicitation when allowance is provided for optional packing and packaging methods and each bidder's (offeror's) shipping weights (or dimensions) will be a factor in determining transportation costs for evaluation purposes. The provision may be modified to accommodate the shipping data applicable to the nature of the supplies.

§ 19.212 Shipping point(s) used in evaluation of f.o.b. origin bids.

The provision in § 2.201(a)(4)(ix) of this chapter shall be included in solicitations which may result in f.o.b. origin contracts to assure application of appropriate freight costs in evaluating bids or proposals. This provision should be supported by an additional provision as part of the solicitation, to require prospective contractors to specify the location of their actual shipping point(s) (street address, city, State, and ZIP code) from which supplies will be delivered to the Government in accordance with the contract's f.o.b. origin terms. To assure appropriate rail routing for shipments from or to the contractor's shipping point, each prospective contractor shall also be required to specify whether his shipping point has a private railroad siding and the name of the rail carrier serving it. When the shipping point does not have a private siding, the name and address of the nearest public rail siding and carrier serving it shall be specified.

§ 19.213–1 Solicitation provisions.

* * * * *

(d) Unless logistics requirements limit the ports of loading to those ports listed in the solicitation, the solicitation shall provide that the bidder or offeror may nominate additional ports (including ports in Alaska and Hawaii) more favorably located to his shipping point, and that these ports shall be considered in the evaluation of bids or proposals. *Provided, however,* That these ports must possess all requisite capabilities of the listed ports in relation to the supplies being procured. Under these circumstances, the provision under § 2.201(a)(2)(xiv) of this chapter shall be included in the solicitation. When a solicitation provides for bids or offers on the basis of f.o.b. origin only, as described in clause paragraph B of § 2.201(a)(2)(xiv), clause paragraph C and the last sentence of clause paragraph E shall be deleted. When a solicitation provides for bids or offers on the basis of f.o.b. destination only, as described in clause paragraph C, the following shall be deleted: the opening phrase in clause paragraph C(2) "Unless bids * * * (see B above)" and the first and third blocks pertaining to origin at the end of clause paragraph E.

* * * * *

PART 24—DISPOSITION OF PERSONAL PROPERTY IN POSSESSION OF CONTRACTORS

14. Section 24.201–2(c)(1) is revised to read as follows:

§ 24.201–2 General restrictions on contractor's authority.

* * * * *

(c) * * *

(1) A sale by a subcontractor to the next higher-tier contractor or to an affiliate (see § 2.201(a)(2)(ii) and (b)(17) of this chapter) of such contractor or of the subcontractor; or

* * * * *

PART 26—CONTRACT MODIFICATIONS

15. Section 26.203(a) is revised to read as follows:

§ 26.203 Preparation of change order.

* * * * *

(a) Block 10—Except for change orders issued under letter contracts or under contracts containing a clause limiting the Government's obligation, cite the estimated change in contract price, if any, together with the appropriate accounting and appropriation data. (The estimated change in price shall not be shown on copies of the Standard Form 30 furnished to the contractor.)

* * * * *

[Rev. 5, ASPR, Oct. 31, 1969, DPC 73 and DPC 74] (Secs. 2202, 2301–2314, 70A Stat. 120, 127–133; 10 U.S.C. 2202, 2301–2314)

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Plans Division, TAGO.

[F.R. Doc. 70–9; Filed, Jan. 2, 1970; 8:45 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that two positions of Confidential Assistant to the Administrator, Food and Nutrition Service, are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (q) is added to § 213.3313 as set out below.

§ 213.3313 Department of Agriculture.

* * * * *

(q) *Food and Nutrition Service.* (1) Two Confidential Assistants to the Administrator.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–34; Filed, Jan. 2, 1970; 8:47 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

Subpart—1970–71 Marketing Year

PROCLAMATIONS AND DETERMINATIONS WITH RESPECT TO MARKETING QUOTA AND NATIONAL ACREAGE ALLOTMENT FOR 1970 CROP RICE, AND APPORTIONMENT OF 1970 NATIONAL ACREAGE ALLOTMENT OF RICE AMONG THE SEVERAL STATES

The provisions of §§ 730.1501 to 730.1503 are issued pursuant to the Agricultural Adjustment Act of 1938 as amended (7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1970 crop of rice. The purpose of these provisions is to (1) proclaim that marketing quotas shall be in effect for the 1970 crop of rice, (2) establish the national acreage allotment for such crop, (3) announce that an acreage diversion program shall not be in effect for such crop, and (4) apportion the national acreage allotment among the States. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on October 4, 1969 (34 F.R. 15485) in accordance with the provisions of 5 U.S.C. 553. Data, views, and recommendations were submitted pursuant to such notice and consideration given thereto to the extent permitted by law.

It is essential that these provisions be made effective as soon as possible since the proclamation of quota is required to be made not later than December 31, 1969. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and §§ 730.1501 to 730.1503 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 730.1501 Marketing quotas for the 1970 crop of rice.

The total supply of rice in the United States for the marketing year beginning August 1, 1969, is determined to be 107.6 million hundredweight (rough basis). The normal supply of rice for such marketing year is determined to be 101.6 million hundredweight (rough basis). Since the total supply of rice for the 1969–70 marketing year exceeds the normal supply for such marketing year, marketing quotas shall be in effect for the 1970 crop of rice.

§ 730.1502 National acreage allotment of rice for 1970.

The normal supply of rice for the marketing year commencing August 1, 1970, is determined to be 94.9 million hundredweight (rough basis). The carryover of rice on August 1, 1970, is estimated at 15.2 million hundredweight. Therefore, the production of rice needed in 1970 to make available a supply of rice for the 1970–71 marketing year equal to the normal supply for such marketing year is 79.7 million hundredweight. The national average yield of rice for the 5 calendar years 1965 through 1969 is determined to be 4,339 pounds per planted acre. The national acreage allotment of rice for 1970 computed on the basis of the normal supply for 1970, less estimated carryover, and the national average yield per planted acre for the 5 calendar years, 1965 through 1969, is 1,836,461 acres. Since this amount is more than the total acreage allotted in 1956, the minimum provided by section 353(c)(6) of the act, and more than the amount requiring the formulation of a diversion program for rice under section 353(c)(7) of the act, the national allotment for rice for the calendar year 1970 shall be 1,836,461 acres and an acreage diversion program for rice shall not be in effect for 1970.

§ 730.1503 Apportionment of 1970 national acreage allotment of rice among the several States.

The national acreage allotment proclaimed in § 730.1502, less a reserve of 679 acres, is hereby apportioned among the several rice-producing States as follows:

State		Acres
Arizona		254
Arkansas		443,331
California		333,054
Florida		1,063
Illinois		22
Louisiana:		
Farm administrative area	508,823	
Producer administrative area	18,833	
State total		527,756
Mississippi		51,858
Missouri		5,286
North Carolina		43
Oklahoma		166
South Carolina		3,163
Tennessee		575
Texas		469,211
Total apportioned to States		1,835,782
Unapportioned National Reserve		679
U.S. total		1,836,461

(Secs. 301, 352, 353, 354, 375, 52 Stat. 38, 60, 61, 66, as amended; 7 U.S.C. 1301, 1352, 1353, 1354, 1375)

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

Signed at Washington, D.C., on December 30, 1969.

CLIFFORD M. HARDIN,
Secretary.

[F.R. Doc. 69-15531; Filed, Dec. 31, 1969; 12:45 p.m.]

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 3]

PART 780—APPEAL REGULATIONS

Miscellaneous Amendments

Part 780 of Chapter VII of Title 7 of the Code of Federal Regulations is amended as follows:

1. Section 780.1 is amended by revising paragraphs (d) and (n) and adding a new paragraph (p) to read as follows:

§ 780.1 Basis, purpose, and applicability.

* * * * *

(d) Allotment Programs for cotton (Part 722 of this chapter), tobacco (Parts 724 and 725 of this chapter), wheat (Part 728 of this chapter), peanuts (Part 729 of this chapter), and rice (Part 730 of this chapter), except when marketing quotas are in effect for the commodity and the matter being appealed is a factor bearing upon a marketing quota being determined for the farm in which case review under Part 711 of this chapter shall be applicable.

* * * * *

(n) Upland Cotton and Extra Long Staple Cotton Programs (Part 722 of this chapter).

* * * * *

(p) All other programs to which this part is made applicable by individual program regulations.

2. Section 780.9 is amended to read as follows:

§ 780.9 Determination.

(a) The reviewing authority prior to making a determination may request the producer or participant to produce additional evidence which it may deem relevant or may develop additional evidence from other sources. Upon reconsideration or review and within program authorities, the reviewing authority may affirm, modify, or reverse any determination made by it initially or made by a lower reviewing authority, or may remand the matter to a lower reviewing authority for such further consideration as is deemed appropriate. The producer or participant shall be notified in writing of the determination. The notification shall clearly set forth the basis for the determination. Each other person affected by the determination shall be notified in writing of the determination. Determinations made by the Deputy Administrator shall not be appealable by the producer or participant.

(b) When a producer requests copies of documents, information, or evidence upon which a determination is made or which will form the basis of the determination, copies of such documents, information or evidence shall be made available as provided in Part 798 of this chapter.

3. Section 780.11 is amended by revising paragraph (a) to read as follows:

§ 730.11 Requests for reconsideration and appeals requiring special handling.

(a) Determinations made by a State committee with respect to (1) the establishment of farm yields for wheat, feed grain, and cotton, (2) the establishment of farm feed grain bases, (3) matters arising under the Tobacco Discount Variety Program, and (4) eligibility provisions of the Livestock Feed Program are not appealable to the Deputy Administrator.

* * * * *

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 29, 1969.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-73; Filed, Jan. 2, 1970; 8:48 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 812—SUGAR REQUIREMENTS AND QUOTAS: HAWAII AND PUERTO RICO

Establishment of Quotas for Local Consumption in 1970

On page 19293 of the FEDERAL REGISTER of December 5, 1969, there was published a notice of proposed rule making to issue a regulation determining sugar requirements for 1970 and establishing quotas for Hawaii and Puerto Rico for the calendar year 1970. Interested persons were given until December 15, 1969, to submit written data, views, or arguments for consideration in connection with the proposed regulation.

No views or comments were received relative to the proposed regulation.

The proposed regulation is hereby adopted without change.

Effective date: January 1, 1970.

Signed at Washington, D.C., on December 29, 1969.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

Sec.
812.1 Sugar requirements and quota—Hawaii.
812.2 Sugar requirements and quota—Puerto Rico.
812.3 Restrictions on marketing.

§ 812.1 Sugar requirements and quota—Hawaii.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Hawaii for the calendar year 1970 is 50,000 short tons, raw value, and a quota of 50,000 short tons, raw value, is hereby established for Hawaii for local consumption for the calendar year 1970.

§ 812.2 Sugar requirements and quota—Puerto Rico.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1970 is 135,000 short tons, raw value, and a quota of 135,000 short tons, raw value, is hereby established for Puerto Rico for local consumption for the calendar year 1970.

§ 812.3 Restrictions on marketing.

Pursuant to section 209 of the Act, for the calendar year 1970 all persons are hereby prohibited from marketing, pursuant to Part 816 of this chapter (33 F.R. 8495), in Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1970 has been filled. Pursuant to section 211(c) of the Act, the quota for each area may be filled only with sugar produced from sugarcane grown in the respective area.

Furthermore, pursuant to section 211(c) of the Act, sugar may be unloaded from a carrier and brought into a Foreign Trade Zone for manipulating therein or manufacturing therein another product for the subsequent entry into Hawaii or Puerto Rico for consumption only if such sugar is charged pursuant to S.R. 816 to the applicable respective local quota.

Statement of bases and considerations. Pursuant to section 203 of the Act, the provisions of section 201 of the Act deemed applicable to the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the 12-month period ended September 30, 1969, (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and in Puerto Rico, including that which was lost in refining after charge to the local quotas, during such 12-month period are estimated to have been approximately 35,000 short tons of sugar, raw value, and 130,000 short tons of sugar, raw value, respectively.

The provisional estimate by the Bureau of Census of the total population for Hawaii as of July 1, 1969, was 794,000. No provisional estimate of the 1969 population for Puerto Rico is available. However, the 1968 population was 2,723,000.

In Hawaii industrial use accounts for a substantial portion of the total consumption of sugar and this demand is a significant factor in the total sugar requirements. During the period 1960 through 1968 the annual sugar consumption in this area has varied from approximately 101 to 138 pounds, raw value, per person. These wide year-to-year variations suggest the possibility that requirements could be higher in 1970 than in the 12 months ended September 30, 1969, when sugar marketings approximated 35,000 short tons, raw value.

In Puerto Rico during the 12 months ended September 30, 1969, marketings of sugar for local consumption totaled approximately 130,000 short tons, raw value. After making allowance for possible consumption increases in 1970 resulting from probable population increases, the total sugar needed to meet requirements for local consumption in Puerto Rico in 1970 may be approximately 135,000 short tons, raw value.

Circumstances prevailing in the utilization of quota for local consumption in Hawaii and Puerto Rico are such that no special problems arise nor are the objectives of the Act jeopardized if the 1970 local quota is not completely filled. It is therefore, desirable to establish the 1970 requirements and quotas sufficiently high initially so that later adjustments may be avoided.

In accordance with the above, the requirements for local consumption in Hawaii and Puerto Rico for 1970 have been determined to be 50,000 and 135,000 short tons, raw value, respectively.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 201, 203, 209, 211; 61 Stat. 923, as amended, 925, 928; 7 U.S.C. 1111, 1113, 1119, 1121)

[F.R. Doc. 70-74; Filed, Jan. 2, 1970; 8:48 a.m.]

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

[Orange Reg. 65]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905; 34 F.R. 12426), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation of the committee established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, including Temple and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the Growers Administrative Committee reflect its appraisal of the Florida orange crop and the current and prospective market conditions. Shipments of oranges, except Murcott Honey oranges, are currently regulated and volume shipments

of Murcott Honey oranges are expected to begin on or after January 5, 1970. The size and grade requirements specified herein are necessary to prevent the handling, on and after January 5, 1970, of oranges of the named varieties, including Murcott Honey oranges, that are of a lower grade or smaller size so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to the producers pursuant to the declared policy of the act.

(3) 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 regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than January 5, 1970. Domestic shipments of Florida oranges, except Murcott Honey oranges, are currently regulated pursuant to Orange Regulation 64 (34 F.R. 19067, 19810) and determinations as to the need for, and extent of, regulation of domestic shipments of Murcott Honey oranges must await the development of the crop and the availability of information on the demand for such fruit; the recommendations and supporting information for regulation of such orange shipments subsequent to January 4, 1970, and in the manner herein provided, were promptly submitted to the Department after an assembled meeting of the Growers Administrative Committee on December 30, 1969, held to consider recommendations for regulation; the provisions of this regulation are identical with the aforesaid recommendation of the committee, and information concerning such provisions has been disseminated among handlers of such oranges; it is necessary to make this regulation effective as hereinafter set forth to preclude the shipment of immature Murcott Honey oranges and to otherwise effectuate the declared policy of the act; and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.521 Orange Regulation 65.

(a) Order: (1) Orange Regulation 64, as amended (34 F.R. 19067, 19810) is hereby terminated January 5, 1970.

(2) During the period January 5, 1970, through September 13, 1970, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, except Navel, Temple and Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 1;

(ii) Any oranges, except Navel, Temple and Murcott Honey oranges, grown in the production area, which are of a size smaller than $2^{8}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than $2^{8}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size $2^{1}/_{16}$ inches in diameter or smaller;

(iii) Any Navel oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden;

(iv) Any Navel oranges, grown in the production area, which are of a size smaller than $2^{8}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than $2^{8}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size $2^{1}/_{16}$ inches in diameter or smaller;

(v) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden;

(vi) Any Temple oranges, grown in the production area, which are of a size smaller than $2^{8}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of Temple oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Oranges and Tangelos;

(vii) Any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 1; or

(viii) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than $2^{11}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of Murcott Honey oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Oranges and Tangelos.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the applicable meaning given to the respective term in the U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title).

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

Dated: December 31, 1969.

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

[F.R. Doc. 70–108; Filed, Jan. 2, 1970; 8:49 a.m.]

[Lemon Reg. 408]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.708 Lemon Regulation 408.

(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.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective

during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 30, 1969.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period January 4, 1970, through January 10, 1970, are hereby fixed as follows:

(i) District 1: 23,250 cartons;

(ii) District 2: 58,590 cartons;

(iii) District 3: 81,840 cartons.

(2) As used in this section; "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: December 31, 1969.

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

[F.R. Doc. 70–146; Filed, Jan. 2, 1970; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended, and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis areas is hereby amended to read as follows:

§ 78.13 Modified certified brucellosis areas.

The following States, or specified portions thereof, are hereby designated as modified certified brucellosis areas:

Alabama. The entire State;
Alaska. The entire State;
Arizona. The entire State;
Arkansas. The entire State;
California. The entire State;
Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, and Yuma Counties, Southern Ute Indian Reservation and Ute Mountain Ute Indian Reservation;
Connecticut. The entire State;
Delaware. The entire State;
Florida. Baker, Bay, Bradford, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay, Collier, Columbia, Dade, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hendry, Hernando, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Liberty, Madison, Manatee, Marion, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas Putnam, Santa Rosa, Sarasota, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington Counties;
Georgia. The entire State;
Hawaii. The entire State;
Idaho. The entire State;
Illinois. The entire State;
Indiana. The entire State;
Iowa. The entire State;
Kansas. The entire State;
Kentucky. The entire State;
Louisiana. Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Calcasieu, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Baton Rouge, East Carroll, East Feliciana, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson, Lafayette, Lafourche, La Salle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn Parishes;
Maine. The entire State;
Maryland. The entire State;
Massachusetts. The entire State;
Michigan. The entire State;
Minnesota. The entire State;
Mississippi. The entire State;
Missouri. The entire State;
Montana. The entire State;
Nebraska. Adams, Antelope, Arthur, Banner, Blaine, Boone, Box Butte, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valey, Washington, Wayne, Webster, Wheeler, and York Counties;
Nevada. The entire State;
New Hampshire. The entire State;
New Jersey. The entire State;
New Mexico. The entire State;
New York. The entire State;
North Carolina. The entire State;
North Dakota. The entire State;
Ohio. The entire State;
Oklahoma. The entire State;
Oregon. The entire State;
Pennsylvania. The entire State;
Rhode Island. The entire State;
South Dakota. Beadle, Bennett, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Clark, Clay, Codington, Corson, Custer, Day, Deuel, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, and Zeibach Counties; and Crow Creek Indian Reservation.
Tennessee. The entire State;
Texas. Andrews, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Cluberson, Dallam, Dawson, Deaf Smith, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fayette, Fisher, Foard, Freestone, Gaines, Garza, Gillespie, Glasscock, Gray, Gregg, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Harrison, Hartley, Haskell, Hays, Hemphill, Hidalgo, Hill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jasper, Jeff Davis, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufmann, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamb, Lampasas, Lee, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Madison, Marion, Martin, Mason, Maverick, McCulloch, McLennan, Medina, Menard, Midland, Mills, Mitchell, Montague, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Refugio, Roberts, Robertson, Rockwell, Runnels, Rusk, Sabine, San Augustine, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorten, Tom Green, Travis, Tyler, Upshur, Upton, Uvalde, Val Verde, Ward, Washington, Webb, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties;
Utah. The entire State;
Vermont. The entire State;
Virginia. The entire State;
Washington. The entire State;
West Virginia. The entire State;
Wisconsin. The entire State;
Wyoming. The entire State;
Puerto Rico. The entire area; and
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended, 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment adds the following additional areas to the list of areas designated as modified certified brucellosis areas because it has been determined that such areas come within the definition of § 78.1(i): Marion County in Florida; Catahoula, De Soto, Franklin, and Morehouse Parishes in Louisiana; Keya Paha

County in Nebraska; Colorado, Fayette, Robertson, and Webb Counties in Texas.

Tensas Parish in Louisiana and Hudspeth County in Texas were deleted from the list of modified certified brucellosis areas on November 4, 1969. Since said date, it has been determined that such counties again come within the definition of § 78.1(i); and therefore, they have been redesignated as modified certified brucellosis areas.

The amendment deletes the following areas from the list of areas designated as modified certified brucellosis areas because it has been determined that such areas no longer come within the definition of § 78.1(i): Cheyenne County in Colorado; Lynn and Floyd Counties in Texas.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of December 1969.

E. E. SAULMON,
Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 70-33; Filed, Jan. 2, 1970; 8:46 a.m.]

PART 78—BRUCELLOSIS

Changes in List of Public Stockyards

Pursuant to the provisions of sections 4, 5, and 13 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.14(a) of Part 78, Title 9, Code of Federal Regulations, is hereby amended by changing the following stockyard names to read as follows:

COLORADO

Former name	*New name*
Union Stockyards, Denver.	Denver Union Stockyards, Denver.

MONTANA

Billings Public Auction Yards, Billings.	Public Auction Yards, Billings.

TEXAS

Vann Cattle Company, Fort Worth.	Vann-Roach Cattle Company, Fort Worth.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 1265, as amended, sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The foregoing amendment reflects recent changes in the names of three public stockyards where Federal inspection is maintained. Such stockyards are located in Denver, Colo.; Billings, Mont.; and Fort Worth, Tex.

Inasmuch as notice and other public procedure regarding the amendment would not make additional information available to the Department and since interested persons should be informed promptly of such changes, it is found upon good cause under the administrative procedure provisions in 5 U.S.C., Section 553, that notice and other public procedure regarding the amendment are impracticable and contrary to the public interest, and the amendment should be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of December 1969.

R. E. OMOHUNDRO,
Acting Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 70-32; Filed, Jan. 2, 1970; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER E—RULES, REGULATIONS, STATEMENTS OF GENERAL POLICY OR INTERPRETATION AND EXEMPTIONS UNDER THE FAIR PACKAGING AND LABELING ACT

PART 501—REGULATIONS EXEMPTING CERTAIN COMMODITIES FROM FULL OR PARTIAL COMPLIANCE WITH SECTION 4, FAIR PACKAGING AND LABELING ACT AND THE REGULATIONS THEREUNDER

Camera Film

The Federal Trade Commission on October 2, 1969 (34 F.R. 15366), proposed a new § 501.2 of the Fair Packaging and Labeling Act regulations which would exempt camera film from certain of the mandatory requirements of Part 500 of the regulations. As proposed, movie film and bulk still film when quantitatively expressed in terms of lineal feet of usable film would be exempt from the necessity of complying with § 500.11(c), and still film when expressed in terms of the number of exposures provided would be exempt from the requirements of § 500.12.

Interested parties were invited to file comments, and all comments but one favored adoption of the exemption as proposed.

The National Association of Photographic Manufacturers, Inc., commented that where a given film is marketed in a variety of predetermined lengths, a statement expressing exposures as indicated by proposed § 501.2(b) would be logical and informative. It suggested that where a packaged still film is marketed only in one predetermined length, the expression of the number of exposures could be confusing in those cases of film capable of varying numbers of exposures as determined by the camera in which the film is used. The Commission has concluded that in the light of all comments, including the comments of the Association, the order should be adopted as proposed, adding only a further option to express exposure measurements in inches, and citing such an example in § 501.2(b).

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (sections 5, 6, 80 Stat. 1298, 1299, 1300; U.S.C. 1454, 1455); Subchapter E is amended by adding thereto the following new section:

§ 501.1 Camera film.

Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of Part 500 of this chapter which specify how measurement of commodities should be expressed, provided:

(a) The net quantity of contents on packages of movie film and bulk still film is expressed in terms of the number of lineal feet of usable film contained therein.

(b) The net quantity of contents on packages of still film is expressed in terms of the number of exposures the contents will provide. The length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement. (Example: "36 exposures, 36 X 24 mm. or 12 exposures, 2¼ X 2¼ inches".)

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Secretary, Federal Trade Commission, Washington, D.C. 20580, written objections thereto, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Objections will be deemed sufficient to warrant the holding of a public hearing only: (1) If they establish that the objector will be adversely affected by the order; (2) if they specify with particularity the provisions of the order to which objection is taken; and (3) if they are supported by reasonable grounds which if valid and factually supported may be adequate to justify the relief sought. Anyone who files objections which are not deemed by the Commission sufficient to warrant the holding of a public hearing will be promptly notified of that determination.

As soon as practicable after the time for filing objections has expired, the Commission will publish a notice in the FEDERAL REGISTER specifying those parts of the order which have been stayed by the filing of objections or, if no objections sufficient to warrant the holding of a

public hearing have been filed, stating the fact. This order shall become effective 30 days following the date of its publication in the FEDERAL REGISTER, except as to any provision that may be stayed by the filing of valid objections.

Issued: December 29, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-116; Filed, Jan. 2, 1970; 8:49 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5, Further Amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965 ——)

Subpart P—Certification and Recertification; Requests for Payment

TIME REQUIREMENTS FOR CERTIFICATIONS AND RECERTIFICATIONS

On October 14, 1969, there was published in the FEDERAL REGISTER (34 F.R. 15804) a notice of proposed rule making with proposed amendments to Subpart P of Regulations No. 5. The proposed amendments would change the time requirements for certifications and recertifications for inpatient hospital services to require that the initial certification be obtained no later than the 12th day of hospitalization rather than the 14th day, and that the first recertification be obtained no later than the 18th day of stay, instead of the 21st. Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed amendments. After consideration of all relevant matter presented by interested persons, the proposed amendments are adopted without change and are set forth below.

(Secs. 1102, 1814, 1815, 1833, 1835, 1842, 1871, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 297, 79 Stat. 302, 303, 309, 331, as amended; sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 1302, 1395 et seq.)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER except as otherwise provided in § 405.1627(b).

Dated: December 23, 1969.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: December 30, 1969.

JOHN G. VENEMAN,
Acting Secretary of Health, Education, and Welfare.

1. Section 405.1626 is amended by revising paragraph (b) to read as follows:

§ 405.1626 Inpatient hospital services other than inpatient psychiatric or tuberculosis hospital services; certification and recertification for services furnished prior to January 3, 1968.

* * * * *

(b) *Recertification.* The recertification statement should contain the information and otherwise satisfy the requirements set forth in § 405.1627(a). The first recertification is required no later than as of the 14th day of hospitalization. A hospital may, at its option, provide for the first recertification to be made earlier, or it may vary the timing of the first recertification within the 14-day period by diagnostic or clinical categories. A second recertification is required no later than as of the 21st day of hospitalization. Thereafter, subsequent recertifications are to be made at intervals established by the utilization review committee (on a case-by-case basis if it so chooses), but in no event may the prescribed interval between recertifications exceed 30 days. The provisions of § 405.1627(b) (3) and (4) are also applicable except that the option provided for in § 405.1627(b(3) is applicable only with respect to the third and subsequent recertifications.

2. Section 405.1627 is amended by revising paragraph (b) to read as follows:

§ 405.1627 Inpatient hospital services other than inpatient psychiatric or tuberculosis hospital services; certification and recertification for services furnished on or after January 3, 1968.

* * * * *

(b) *Timing of certifications and recertifications*—(1) *For services furnished to beneficiaries admitted prior to January 1, 1970.* The certification is required no later than as of the 14th day of hospitalization. A hospital may, at its option, provide for the certification to be made earlier, or it may vary the timing of the certification within the 14-day period by diagnostic or clinical categories. The first recertification is required no later than as of the 21st day of hospitalization. Thereafter, subsequent recertifications are to be made at intervals established by the utilization review committee (on a case-by-case basis if it so chooses), but in no event may the prescribed interval between recertifications exceed 30 days.

(2) *For services furnished to beneficiaries admitted on or after January 1, 1970.* The certification is required, with respect to beneficiaries who are admitted to the hospital on or after January 1, 1970, no later than as of the 12th day of hospitalization. A hospital may, at its option, provide for the certification to be made earlier, or it may vary the timing of the certification within the 12-day period by diagnostic or clinical categories. The first recertification is required no later than as of the 18th day of hospitalization. Thereafter, subsequent recertifications are to be made in accordance with the provisions of subparagraph (1) of this paragraph relating to subsequent recertifications.

(3) *Option to conduct review of stay of extended duration.* At the option of the hospital, review of a stay of extended duration, pursuant to the hospital's utilization review plan, may take the place of the second and any subsequent physician recertifications. Such review may be performed before the date on which such physician recertification would otherwise be required, but would be considered timely if performed as late as the seventh day following such date. The next physician recertification would need to be made no later than the 30th day following such review; if review by the utilization review committee took the place of this physician recertification, the review could be performed as late as the seventh day following such 30th day.

(4) *Description of procedure.* The hospital should have available in the files a written description of the procedure it adopts on timing of certifications and recertifications—that is, the intervals at which the necessary statements are required and whether review of long-stay cases by the utilization review committee serves as an alternative to recertification by a physician in the case of the second or subsequent recertifications.

3. Section 405.1629 is amended by revising the first sentence to read as follows:

§ 405.1629 Inpatient tuberculosis hospital services and inpatient psychiatric hospital services; certification and recertification.

The requirements for physician certification and recertification for inpatient psychiatric and tuberculosis hospital services are the same as the requirements for inpatient hospital services furnished prior to January 3, 1968, as set out in § 405.1626, except that the content of the certification and recertification statements is to conform with the requirements of this section and, in the case of patients admitted to the hospital on or after January 1, 1970, recertification statements are to be obtained in accordance with the intervals set forth in § 405.1627(b)(2). * * *

[F.R. Doc. 70-110; Filed, Jan. 2, 1970; 8:49 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Thiabendazole

The Commissioner of Food and Drugs has evaluated a new animal drug application (40-205V) filed by Ralston Purina Co., Checkerboard Square, Saint Louis, Mo. 63199, proposing use of thiabendazole as an anthelmintic for horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic

Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 135c:

§ 135c.7 Thiabendazole.

(a) *Chemical name.* 2-(4'-Thiazolyl)-benzimidazole.

(b) *Specifications.* (1) Ultraviolet assay: *A* 1 percent of 0.1*N* HCl, 1 centimeter, 302 millimicrons = 95–103 percent.

(2) Ultraviolet identity ratio: (A_{302}/A_{275}) = 0.485–0.520.

(3) Melting point range: 296°–303° C.

(4) Heavy metals: (As lead) maximum 0.005 percent.

(c) *Sponsor.* Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63199.

(d) *Conditions of use.* It is used as a top dressing added to the usual feed of horses and administered at the rate of 2 grams of thiabendazole per 100 pounds of body weight mixed into that amount of the feed normally consumed at one feeding for the control of large strongyles, small strongyles, pinworms, and threadworms (including members of the genera *Strongylus, Cyathostomum, Cylicobrachytus* and related genera, *Craterostomum, Oesophagodontus, Poteriostomum, Oxyuris,* and *Strongyloides*). Warning: Not for use in horses intended for food.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 22, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 70–10; Filed, Jan. 2, 1970; 8:45 a.m.]

PART 148e—ERYTHROMYCIN

Erythromycin-Sulfonamide Combination Products for Oral Administration; Postponement of Effective Date of Order

Drugs for human use; drug efficacy study implementation.

An order was published in the FEDERAL REGISTER of September 27, 1969 (34 F.R. 14890), to become effective in 40 days, amending Part 148e of the antibiotic drug regulations to repeal provisions for certification of combination drugs containing erythromycin and triple sulfonamides for oral administration.

Having received objections and a request for an extension of effective date to allow for submission of additional data, the Commissioner of Food and Drugs postponed the effective date of the order to January 5, 1970. The postponement document was published in the FEDERAL REGISTER of November 8, 1969 (34 F.R. 18087).

Additional material has been received and is being reviewed; however, the Commissioner concludes that the effective date of the order should be further postponed to allow time for completion of review of the material and the objections. When this review is completed, the Commissioner will announce in the FEDERAL REGISTER whether or not requests for hearing with reasonable grounds have been received.

Therefore, the effective date of the order of September 27, 1969 (34 F.R. 14890), is hereby postponed pending said review.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: December 31, 1969.

CHARLES C. EDWARDS,
Acting Commissioner of Food and Drugs.

[F.R. Doc. 70–111; Filed, Jan. 2, 1969; 8:49 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart B—Contract Rights and Obligations

Section 203.405 is amended to read as follows:

§ 203.405 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4¾	Jan. 1, 1967	Jan. 1, 1968
5⅛	Jan. 1, 1968	July 1, 1969
5⅞	July 1, 1969	Jan. 1, 1970
6⅛	Jan. 1, 1970	

Section 203.479 is amended to read as follows:

§ 203.479 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4¾	Jan. 1, 1967	Jan. 1, 1968
5⅛	Jan. 1, 1968	July 1, 1969
5⅞	July 1, 1969	Jan. 1, 1970
6⅛	Jan. 1, 1970	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

SUBCHAPTER D—RENTAL HOUSING INSURANCE

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart B—Contract Rights and Obligations

In § 207.259 paragraph (e)(6) is amended and the undesignated text following the chart is designated as subparagraph (7) to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(e) *Issuance of debentures.* * * *

(6) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4¾	Jan. 1, 1967	Jan. 1, 1968
5⅛	Jan. 1, 1968	July 1, 1969
5⅞	July 1, 1969	Jan. 1, 1970
6⅛	Jan. 1, 1970	

(7) * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

SUBCHAPTER F—URBAN RENEWAL HOUSING INSURANCE AND INSURED IMPROVEMENT LOANS

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart D—Contracts Rights and Obligations—Projects

Section 220.830 is amended to read as follows:

§ 220.830 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4¾	Jan. 1, 1967	Jan. 1, 1968
5⅛	Jan. 1, 1968	July 1, 1969
5⅞	July 1, 1969	Jan. 1, 1970
6⅛	Jan. 1, 1970	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

Issued at Washington, D.C., December 23, 1969, to become effective as of January 1, 1970.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[F.R. Doc. 70-14; Filed, Jan. 2, 1970; 8:45 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of these amendments and revisions is to implement the termination of the acceptance of gold deposits for exchange into gold bars at the U.S. Mints and Assay Offices, and to limit the receipt of silver deposits for purchase or exchange to the U.S. Assay Offices only. Notice of termination of gold deposits for exchange was published in the FEDERAL REGISTER on November 29, 1969 (34 F.R. 19032).

PART 90—TABLE OF CHARGES AND REGULATIONS OF THE MINTS AND ASSAY OFFICES OF THE UNITED STATES FOR PROCESSING SILVER AND ASSAYING BULLION, METALS, AND ORES [1]

1. Part 90 of Title 31 of the Code of Federal Regulations is revised to read as follows:

Sec.
90.1 Application and general regulations.
90.2 Silver bullion which may be accepted.
90.3 Requisites for acceptable bullion, as to fineness.
90.4 Return or rejection of silver deposited.
90.5 Charges for treating and processing silver.
90.6 Charges for special assays and assays of ores.
90.7 Transactions not subject to various treating and processing charges.
90.8 Settlement for transactions conducted.

AUTHORITY: The provisions of this Part 90 issued under 5 U.S.C. 301, R.S. 3524, as amended, R.S. 3546, 48 Stat. 337; 31 U.S.C. 332, 360.

§ 90.1 Application and general regulations.

(a) *Scope.* This part prescribes policies, regulations, and charges of the U.S. Assay Offices governing the acceptance and treatment of silver deposited for purchase or exchange, under provisions of the Newly-Mined Domestic Silver Regulations of 1965, the regulations of the Office of Domestic Gold and Silver Operations (Parts 81 and 93 of this chapter, respectively) and title 31 of the United States Code.

(b) *Assaying, melting, parting and refining, stamping, bar charges, and other related services.* The charges for the various operations on bullion deposited, for the preparation of bars, and for the assay of samples of bullion and ores are fixed from time to time by the Director of the Mint, with the concurrence of the Secretary of the Treasury, so as to equal but not exceed in their judgment the actual average costs. The U.S. Mints and Assay Offices shall impose appropriate charges for services performed under these regulations.

(c) *Metals not returned to depositors.* Metals other than silver contained in bullion accepted will not be returned to the depositor, nor will credit or payment be given for them.

§ 90.2 Silver bullion which may be accepted.

(a) *Silver deposits for purchase.* The U.S. Assay Offices will accept for purchase, silver which meets the requisites set forth in Parts 81 and 93 of this chapter, and the general regulations in this part.

(b) *Silver deposits for exchange in the form of bars.* The U.S. Assay Offices will accept silver for exchange in the form of bars, subject to the regulations in this part.

§ 90.3 Requisites for acceptable bullion, as to fineness.

(a) *Silver deposits for purchase.* (1) Silver governed by the regulations in Parts 81 and 93 of this chapter must contain at least 600 parts of silver in 1,000, to be eligible for deposit under the regulations in this part.

(2) In addition to this requisite as to fineness, deposits in this category must also be accompanied by duly executed affidavits as evidence that such silver is eligible. Forms for this purpose are prescribed in Part 93 of this chapter.

(b) *Silver deposits for exchange in the form of bars.* Silver not governed by Part 81 of this chapter must contain at least 600 parts of silver in 1,000 to be eligible for return in the form of bars.

§ 90.4 Return or rejection of silver deposited.

(a) *Unsatisfactory silver bullion.* Any silver bullion that fails to meet the necessary requisites set forth in Parts 81 and 93 of this chapter, and this part, or that is unsuitable for mint operations, shall not be accepted, but shall be returned according to provisions of paragraph (b) of this section.

(b) *Return of bullion.* Subject to payment in cash to the Government for charges incurred, bullion may be returned to the depositor at any time before settlement is made or payment is tendered therefor, and thereafter at the option of the officer in charge of the Assay Office handling the bullion.

§ 90.5 Charges for treating and processing silver.

(a) *Melting charges.* A melting charge of $5 shall be imposed for the first 1,000 gross troy ounces of each deposit of bullion. An additional melting charge of 50 cents shall be imposed for each additional 100 gross troy ounces or fraction thereof. These rates shall be applied to the after melting gross weight of the deposit.

(b) *Excess melting loss charge.* When there is a melting loss in excess of 15 percent of the before melting weight of a deposit of bullion, an additional melting charge of $3 shall be imposed for the first 100 gross troy ounces. An additional melting charge of $1 shall be imposed in this case for each additional 100 gross troy ounces or fraction thereof. These additional rates shall be applied to the before melting gross weight of the deposit.

(c) *Abnormal treatment charges.* At the discretion of the officer in charge of the Assay Office, deposits of bullion which require abnormal treatment shall be subjected to additional charges equal to the extra cost, including remelting and retreatment if necessary. When charges for abnormal treatment are assessed, a charge will not be made for an excess melting loss.

(d) *Parting and refining charge (rate per gross troy ounce to the nearest hundredth)—Silver bullion.*

	Charge (cents)
Silver content:	
600 to 850 thousandths	12
850½ to 995¾ thousandths	6

(e) *Silver bar charges.* When silver bars of a particular size are requested to be issued in exchange for silver bullion deposited, and bars of such size are available, the bar charges will be:

Fineness (thousandths)	Bar sizes (gross troy ounces)	Rates per gross troy ounce (cents)
996 or higher	Not less than 500 ounces	1
	Between 125 and 500 ounces	2
	125 ounces or less [1]	4
	No charge will be imposed on 1,000 ounce bars.	

[1] No stamped silver bar weighing less than 100 gross troy ounces will be issued by the Assay Offices. If a silver deposit for exchange in the form of bars contains less than 100 fine ounces of silver, the silver returned will be in the form of unmarked bars, or an unmarked piece cut from a bar, not to exceed the fine silver content of the deposit. Any fine silver remainder due the depositor, will be purchased at the price established by the Director of the Mint. The Director of the Mint will issue instructions in each case.

§ 90.6 Charges for special assays and assays of ores.

(a) *General.* Gold or silver bullion and ores submitted for special assay will be accepted by the U.S. Mints and Assay Offices only if the owner is authorized by the regulations in Part 54 of this chapter to receive in return any gold contained therein.

(b) *Special assays.*

[1] Coinage Mints are located at Philadelphia, Pa., and Denver, Colo. U.S. Assay Offices are located at New York, N.Y., and San Francisco, Calif. Deposits are not accepted in Washington, D.C.

Metals determined	Gold or silver bullion (under 800 base metal)	Plated or filled goods and white gold
	Charges per assay	
Gold	$11	$12
Silver	11	12
Gold and Silver (same sample)	19	23
Additional charge when the sample contains any of the platinum group metals	5	5

(c) *Assay of ores.* Assays of ores will be made at the U.S. Mint at Denver, Colo. The charge for each metal determined will be:

	Charge
Gold	$5
Silver	5
Gold and Silver (same sample)	8
Lead	8
Zinc	8
Copper	7

§ 90.7 Transactions not subject to various treating and processing charges.

(a) *Deposits exempt from melting charges.* (1) Uncurrent U.S. coin.

(2) Unmutilated stamped U.S. mint silver bars.

(3) Silver bullion of at least 999 thousandths fineness when a satisfactory assay can be obtained without melting.

(b) *Deposits exempt from parting and refining charges.* Deposits of domestic mutilated or uncurrent silver coin received in accordance with Part 100 of this chapter, are not subject to charges for parting and refining, except as provided in § 90.5.

(c) *Bars issued for which there are no bar charges.* There will be no bar charges, except as set forth in § 90.5 for silver bars issued in exchange for silver bullion, when the recipient does not request a specific size bar.

§ 90.8 Settlement for transactions conducted.

(a) *Advance settlement.* When the approximate fineness of bullion containing 5,000 or more ounces of silver may be readily determined, settlement of 90 percent of the value may be made at the discretion of the officer in charge. If the fineness is closely determined by assay, and the bullion is awaiting remelting and reassay for exact determination, settlement of 98 percent of the value may be made. Other advances may be authorized by the Secretary of the Treasury. In any case of an advance the depositor must give a written guaranty that the value of the deposit is at least equal to the amount advanced.

(b) *Statement of charges.* The detailed memorandum of the weight of bullion after melting, the report of the Assayer as to fineness, the value of the bullion deposited and the amount of the charges shall be given to the depositor.

(c) *Payment for silver bullion deposits.* Payment for silver bullion is made, in so far as practicable, in the order in which the deposits are received, by check drawn in favor of the depositor or to such other person as he may designate. In no case is a check in payment of a deposit drawn in favor of any officer or employee of the institution where the deposit is made, and in no case may any person employed in the institution act as agent for the depositor. Checks may be sent by ordinary mail at the risk of the payee or by registered mail at his request and expense.

PART 92—BUREAU OF THE MINT OPERATIONS AND PROCEDURES

2. Part 92 of Title 31 of the Code of Federal Regulations is amended by revising §§ 92.1 and 92.2 to read as follows:

Sec.
92.1 Receipt of silver bullion.
92.2 Handling of bullion.

§ 92.1 Receipt of silver bullion.

As a matter of expedience and convenience to the public, the officers in charge of the Assay Offices are authorized to receive bullion for deposit by express or mail. In cases where reasonable doubts may arise as to the ownership and eligibility or any other pertinent factor concerning bullion, the officers may decline to receive deposits unless made in person. When silver bullion is received by express or mail, or when formal receipts are not requested by the depositors of silver bullion, memorandum receipts are issued to the depositors. Whenever the depositor of silver requests a formal receipt, he is given a receipt on Form 7a for the before-melting weight of his deposit. Receipts on Form 7a must be surrendered, properly endorsed by the depositor, at the time payment is made for the silver bullion represented thereby. If the depositor of silver bullion loses his receipt on Form 7a, payment for his deposit will not be made to him until he shall have posted an indemnity bond for double the value of his deposit.

§ 92.2 Handling of bullion.

(a) All bullion deposited at any of the Assay Offices is weighed, when practicable, in the presence of the depositor or his agent, and the weight is verified by an authorized official or competent employee of the Assay Office. Weights are recorded in troy ounces and hundredths of an ounce. In receiving and weighing deposits, fractions of one-hundredth of an ounce are disregarded. When several parcels are deposited by the same depositor at the same time, they may be weighed separately at his request, but they will be assayed separately only when separate melting charges are assessed for each parcel assayed.

(b) The Assayer takes at least two samples in sufficient portions for assay from each deposit of bullion. The percentages of the silver and base metal contained, as well as the charges to which the deposit is subject, are indicated by the Assayer on a special form provided for that purpose, which is signed by the Assayer. This form also contains the depositor's name, the number and date of the deposit, the class of bullion, the weight before and after melting and the deductions, if any, to which the deposit has been subjected.

PART 93—OFFICE OF DOMESTIC GOLD AND SILVER OPERATIONS PROCEDURES AND DESCRIPTIONS OF FORMS

§§ 93.4, 93.6, 93.56 [Revoked]

3. Sections 93.4, 93.6, and 93.56 of Part 93 of Title 31 of the Code of Federal Regulations are revoked.

(5 U.S.C. 301, R.S. 3524, as amended, R.S. 3546, 48 Stat. 337; 31 U.S.C. 332, 360)

Effective date. These regulations are effective as of the close of business December 31, 1969, as indicated in the notice of termination of gold deposits published in the FEDERAL REGISTER on November 29, 1969 (34 F.R. 19032). Deposits received at the U.S. Mints and Assay Offices prior to this time will be accepted for exchange in accordance with the regulations governing such exchanges.

[SEAL] MARY BROOKS,
Director of the Mint.

Approved: December 30, 1969.

WILLIAM L. DICKEY,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 69-15530; Filed, Dec. 31, 1969; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 209—ADMINISTRATIVE PROCEDURE

Permits for Work in Navigable Waters

Pursuant to the provisions of section 10 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403) and section 4 of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1333(f)), § 209.120 is hereby amended revising paragraph (d) (1) and paragraphs (f) and (g) in their entirety effective upon publication in the FEDERAL REGISTER as follows:

§ 209.120 Permits for work in navigable waters.

* * * * *

(d) *General policies on issuing permits.* (1) The decision as to whether a permit will be issued must rest on an evaluation of all relevant factors, including the effect of the proposed work on navigation, fish and wildlife, conservation, pollution, aesthetics, ecology, and the general public interest except that in the case of permits for fixed structures or artificial islands on Outer Continental Shelf lands under mineral lease from the Department of the Interior, the decision will be based on the effect of the work on navigation and national security. In cases where the structure is unobjectionable but when State or local authorities decline to give their consent to the work, it is not usual for the Corps

of Engineers to issue a permit. It practically becomes of no value in the event of opposition by State or local authority and may be regarded by such authority as an act of discourtesy. In such cases the applicant may be informed that the structure is unobjectionable and that the permit would be issued were the consent of the local authority also forthcoming. In cases of conflicting rights the Corps of Engineers cannot undertake to adjudicate rival claims. In reporting such cases for the action of the Chief of Engineers, the District Engineer will state the attitude of adjacent or neighboring property owners whose interests may be affected by the work proposed and will also state his views concerning any alleged adverse effects so far as regards the possible use of such property.

* * * * *

(f) *Public notice and consultation with interested parties.* (1) Unless the application is for minor structures and work in unimproved waterways or in improved waterways where such structures and work are removed from the fairways used by navigation, the District Engineer will send notices to all parties deemed likely to be interested. In all cases where environmental factors are involved public notices will be sent to interested parties, except for fixed structures or artificial islands on Outer Continental Shelf lands under mineral lease from the Department of the Interior. Notices will be sent to State or local harbor commissions, proper city authorities if the site of the proposed work is within corporate limits of any city, adjacent property owners, the Coastal Engineering Research Center if proposed work involves structures or dredging along the shores of the sea or Great Lakes, the U.S. Fish and Wildlife Service and the head of the agency exercising administration over the wildlife resources of the State whenever the waters of any waterway are impounded, diverted, or otherwise controlled for any purpose, and owners or associations of owners of boat lines. A sketch showing the location and extent of the work proposed will be shown on the reverse side of notices for known controversial cases and for major structures or work and in other instances in the discretion of the District Engineer. Copies of the notices will be posted in the post offices or other public places in the vicinity of the site. A copy of every notice issued will be sent to the Chief of Engineers, attention: ENGCW–ON. The public notice is mandatory, and no permit or extension of time in which to complete work authorized by permit will be granted unless notice has been issued and a reasonable time afforded for protest, except as above provided.

(2) Notice of applications for permits for fixed structures or artificial islands on Outer Continental Shelf lands under mineral lease from the Department of the Interior will be sent to parties and agencies interested in or responsible for national security or navigation. Copies of the notice will be posted in post offices or other public places in the vicinity of the site. A copy of each notice will be sent to the Chief of Engineers, Attention: ENGCW–ON. No permit will be issued until after the date set forth in the notice for submitting comments.

(3) District Engineers will take action under section 10 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 403) on applications for approval of plans of structures in navigable waters of the United States to be used in connection with seaplane operations. Designation as landing areas by the Federal Aviation Agency or local authorities will be accepted as primary authority for the operations. Where primary authority for seaplane operations exists and there is no objection to any proposed structures but there are objections to the seaplane operations, the objection should be presented to the Federal Aviation Agency or local authority for consideration and advice before final action is taken.

(4) Public notices will be issued in connection with cableways for stream gaging purposes, gage installations, and other nonproject structures constructed by the Corps of Engineers in or over navigable waters. Copies of such notices will be sent to all known interested parties. Where installation is made by the Corps of Engineers, detailed plans will be filed in the office of the District Engineer.

(5) Notices should state the name of the applicant, should give the location and a brief description of work (and when not self-evident, the ultimate use of the project) for which application for approval is made should state where the plans may be seen, should include a sketch of all proposed major structures or work when necessary for a full understanding of the proposed work, and should fix a limiting date within which comments will be received. The period so fixed should be as brief as will afford to all having a legitimate objection, a reasonable opportunity to be heard. If time is an essential element, interested parties will be given a minimum period of 10 days after receipt of the notice in which to present protests. The period normally should be not less than 30 days after the actual mailing of the notice. A longer period will be afforded if necessary in exceptional or especially important cases. Except in cases involving permits for fixed structures or artificial islands on Outer Continental Shelf lands under mineral lease from the Department of the Interior, the notice will contain a statement similar to the following: "The determination as to whether a permit will be issued will be based on an evaluation of all relevant factors including the effect of the proposed work on navigation, fish and wildlife, conservation, pollution, and the general public interest. Comments on these factors will be accepted and made part of the record and will be considered in determining whether it would be in the best public interest to grant a permit." In cases involving such fixed structures or artificial islands, the notice will contain a statement similar to the following: "The determination on the issuance of a permit will be based on an evaluation of factors affecting navigation and national security. Comment on these factors will be made a part of the record."

(6) Copies of the notices sent to interested parties, together with a list of parties to whom sent, will accompany all applications for permits submitted to the Chief of Engineers for necessary action.

(7) When an application is received for a permit to authorize the disposal of radio-active waste at sea, District Engineers will coordinate such requests with the U.S. Atomic Energy Commission, Division of Licensing and Regulatory Functions, Washington, D.C. 20545.

(8) In all instances when response to a public notice has been received from a Member of Congress either in behalf of a constituent or himself, the District Engineer will inform the Member of Congress of the final action taken on the application.

(9) In all instances when substantive objections are received in response to a public notice, the District Engineer will inform the applicant of the objections giving full and complete information to give him an opportunity to comment thereon.

(g) *Public hearing.* (1) It is the policy of the Chief of Engineers to conduct his civil works program in an atmosphere of public understanding, trust, and mutual cooperation, and in a manner responsive to public needs and desires. To this end, public hearings are helpful and will be held whenever there appears to be sufficient public interest to justify such action. In case of doubt, a public hearing should be held.

(2) Among the instances warranting public hearings are general public opposition to issuance of a permit for work in navigable waters of the United States. District Engineers will notify the Division Engineers of the need for a hearing, state the proposed arrangements and obtain his concurrence. Public hearings will be held in connection with applications for permits in navigable waters of the United States when Congressional interests or responsible local authorities make an official and valid request therefor and such action will fulfill the above stated policy and objectives.

(3) Since the Corps of Engineers considers only the effect on navigation and national security, public hearings will not normally be held in connection with applications for permits for artificial islands or fixed structures on Outer Continental Shelf lands under mineral lease from the Department of the Interior which has responsibility for other aspects of the public interest. Public hearings will be held by the Corps of Engineers only when in the District Engineer's judgment opponents have a reasonable complaint based on interference with navigation or on adverse effects on national security.

(4) Hearings are public and conducted in an informal manner. The District Engineer, or another officer attached to his staff, presides. At the opening of the hearing the presiding officer announces the purpose of the hearing, that all interested parties are requested to make full and frank statements of their views, that all evidence

and arguments presented will be given consideration, and that later ex parte evidence and arguments are not desired unless the matter is new material and could not be presented at the hearing. The statutes bearing on the subject matter of the hearing and any other pertinent documents are read aloud and the discussion is then opened. The submission of written statements is invited and encouraged. Anyone desiring to do so may speak. Statements, written or oral, are not under oath; cross-examination is not usually permitted but the presiding officer will develop any pertinent point as desired by any individual. No fixed order has been established for the presentation of evidence or argument although proponents are generally heard first, followed by opponents, with full opportunity afforded for rebuttals.

[Regs., ENGCW-ON, Dec. 8, 1969] (Sec. 10, 30 Stat. 1151, Sec. 4, 67 Stat. 462; 33 U.S.C. 403, 43 U.S.C. 1333(f))

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Plans Division, TAGO.

[F.R. Doc. 70-8; Filed, Jan. 2, 1970; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

PART 101-35—TELECOMMUNICATIONS

Changes in Telecommunications Facilities (FTS and Non-FTS)

Part 101-35 is amended to (1) clarify the time periods in which GSA will approve agencies' contemplated changes in telecommunications facilities; (2) prohibit agencies from making non-FTS facility changes if disapproved by GSA; and (3) cross-reference the applicable portions of Part 101-32 for procurement of communications facilities required in connection with automatic data processing equipment or services. In addition, organizational titles are updated to reflect current organization; the text of a portion of Subpart 101-35.4 is rearranged for editorial purposes; and the reference to the Statement of Understanding between GSA and AEC is changed to reflect the latest revision of the statement.

The table of contents for Part 101-35 is amended by the addition of the following new entries:

Sec.

101-35.201-3	Changes required by procurement of automatic data processing equipment (ADPE).
101-35.204	Submission of changes.
101-35.402-1	Types of contracts.
101-35.402-2	Areawide contracts.
101-35.402-3	General-purpose contracts.
101-35.402-4	Special-purpose contracts.

Subpart 101-35.1—General Provisions

Sections 101-35.102(a) and 101-35.112 are revised to read as follows:

§ 101-35.102 Applicability.

* * * * *

(a) The statement of areas of understanding between the Department of Defense and General Services Administration (15 F.R. 8226) shall govern the applicability of this Part 101-35 to the Department of Defense. The statement of understanding between the General Services Administration and the Atomic Energy Commission, dated April 28, 1969, shall govern the applicability of this Part 101-35 to the Atomic Energy Commission.

* * * * *

§ 101-35.112 Submission of information.

Except as otherwise provided, all information required under this Part 101-35 shall be addressed to the Commissioner, Transportation and Communications Service, General Services Administration, Washington, D.C. 20405, or to the Regional Director, TCS, in the regions concerned, at the option of the agencies.

Subpart 101-35.2—Major Changes and New Installations

1. Sections 101-35.201-1 and 101-35.201-2 are revised to read as follows:

§ 101-35.201-1 Changes to other than FTS.

(a) Executive agencies contemplating major changes in telecommunications facilities (non-FTS) or the installation of new facilities (non-FTS), as defined in § 101-35.202, shall give GSA a minimum of 20 regular workdays' notice, in writing, before the date the agency desires to place the order. GSA will approve or disapprove the major changes or new installations within the 20-day period, provided sufficient supporting data, as specified in § 101-35.203, is initially furnished.

(1) If no action is taken by GSA within the 20 workdays after receipt of a request from an agency, subject to the modifications stated in subparagraph (2) of this paragraph, the agency concerned may proceed as if, in fact, approval has been granted.

(2) To establish a common understanding of the 20-workday period, GSA will provide written verification to the agency concerned which identifies the date of receipt of a request for a major change or a new facility. This time period is subject to written modification by GSA if, after review, it is found that (i) the request does not contain the full information required, or (ii) unusual circumstances dictate that a longer period of time is required for GSA to complete its evaluation.

(b) If GSA disapproves a request for a non-FTS major change or installation of new facilities, the requesting agency shall not make arrangements to effect the disapproved request.

§ 101-35.201-2 Changes to FTS.

(a) *Major changes.* Major changes, as defined in § 101-35.202, to any element of the FTS shall be approved only by GSA. Executive agencies contemplating such changes shall notify GSA, in writing, of this request, as far in advance as possible. GSA will approve or disapprove the requested changes as promptly as possible and, if approved, take appropriate action to provide the desired facilities and services.

(b) *Minor changes.* Minor changes to the FTS, other than the ARS, may be made by using agencies, provided GSA is given concurrent notification. Minor ARS changes must be handled like FTS major changes (see § 101-35.201-2(a)), because of contract terms and conditions. However, these minor ARS changes normally will be approved immediately.

2. A new § 101-35.201-3 is added as follows:

§ 101-35.201-3 Changes required by procurement of automatic data processing equipment (ADPE).

(a) *Applicability.* Changes in and installation of new communications services associated with the procurement of ADPE are subject to the provisions of this Subpart 101-35.2, whether or not a submission to GSA is required by Subpart 101-32.4.

(b) *Submission procedures.* The submission procedures provided in this Subpart 101-35.2 shall govern the submission when Subpart 101-32.4 is not applicable. However, when Subpart 101-32.4 requires a submission to GSA, the agency procurement request shall also include the information required by §§ 101-35.203(c)(5) through 101-35.203(c)(8).

3. A new § 101-35.203(c)(10) is added as follows:

§ 101-35.203 Justification of major changes and new installations.

* * * * *

(c) * * *

(10) When telecommunications services are required in connection with sharing of Government ADP resources or commercial ADP time sharing, § 101-32.203 shall be complied with prior to submission under this Subpart 101-35.2.

* * * * *

4. A new § 101-35.204 is added as follows:

§ 101-35.204 Submission of changes.

Requests for changes and the required justifications submitted in accordance with this Subpart 101-35.2 shall be addressed to the General Services Administration, Transportation and Communications Service, Office of Telecommunications Engineering and Requirements—TR, Washington, D.C. 20405. However, the provisions of § 101-32.404 will apply when a request includes both ADPE and communications.

Subpart 101-35.4—Contracting, Negotiation, and Representation Involving Telecommunications Services

1. Sections 101-35.401 and 101-35.402 are revised to read as follows:

§ 101–35.401 General.

Contracting, negotiation, and representation functions for executive agencies for telecommunications services shall be undertaken pursuant to this Subpart 101–35.4. All actions authorized by this subpart are further subject to the requirements of Subpart 101–35.2, to the extent they apply.

§ 101–35.402 Contracting.

§ 101–35.402–1 Types of contracts.

GSA will enter into areawide, general-purpose, and special-purpose contracts for telecommunications services to executive agencies as indicated in this section. GSA has special statutory authority for entering into long-term contracts not to exceed 10 years. GSA will enter into appropriate contracts with communications common carriers, upon request, when it has been determined that such contracts are advantageous to the Government in terms of economy, efficiency, and service.

§ 101–35.402–2 Areawide contracts.

Where areawide contracts have been executed, each executive agency taking service in the franchised territory of the contracting carrier shall procure services under the terms of such contract, unless a general- or special-purpose contract is deemed by GSA, in consultation with the agency concerned, to be in the best interest of the Government.

§ 101–35.402–3 General-purpose contracts.

(a) Executive agencies will make written requests to GSA to contract for general-purpose services where:

(1) No areawide contract is available;

(2) Service requirements involve annual recurring charges or termination liabilities in excess of $50,000; or

(3) Rates have not been established by a Federal or State regulatory body.

(b) Except for long-term contracts under the special statutory authority of GSA, executive agencies are authorized to enter into general-purpose contracts for requirements which are not within the specific limitations listed in § 101–35.402–3(a). One conformed copy of each such contract shall be furnished to GSA.

§ 101–35.402–4 Special-purpose contracts.

Executive agencies will make written requests to GSA to contract for special-purpose services where the requirements include:

(a) Nonstandard or special services involving annual recurring charges or termination liabilities in excess of $50,000; or

(b) Establishment of new rate centers; or

(c) Establishment of new tariffs.

2. Section 101–35.405 is revised to read:

§ 101–35.405 Submission of requests.

Written requests for assistance should be addressed to the General Services Administration, Transportation and Communications Service, Office of Utilities and Communications Management—TC, Washington, D. C. 20405.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: December 24, 1969.

ROD KREGER,
Acting Administrator of General Services.

[F.R. Doc. 70–52; Filed, Jan. 2, 1970; 8:47 a.m.]

Title 45—PUBLIC WELFARE

Chapter V—Foreign Claims Settlement Commission of the United States

SUBCHAPTER C—RECEIPT, ADMINISTRATION, AND PAYMENT OF CLAIMS UNDER THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

PART 531—FILING OF CLAIMS AND PROCEDURES THEREFOR

Claims Against Governments of Bulgaria, Rumania, and Italy

1. Section 531.1 is hereby amended by adding at the end thereof a new paragraph (g) which reads as follows:

§ 531.1 Time for filing.

* * * * *

(g) Claims against the Governments of Bulgaria, Rumania, and Italy, in accordance with the Bulgarian Claims Agreement of July 2, 1963, the Rumanian Claims Agreement of March 30, 1960, and subsections (b) and (c) of section 304, title III of the International Claims Settlement Act of 1949, as amended by Public Law 90–421, respectively, must be filed with the Commission on or before June 30, 1970.

2. Paragraphs (h) and (i) under § 531.2 are hereby redesignated paragraphs (i) and (j) respectively, and new paragraph (h) is inserted to read as follows:

§ 531.2 Form, content and filing of claims.

* * * * *

(h) FCSC Form 285–A—Statement of Claim Against the Government of (Bulgaria, Rumania, and Italy, under title III of the International Claims Settlement Act of 1949, as amended by Public Law 90–421, approved July 24, 1968).

* * * * *

These amendments shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: December 30, 1969, at Washton, D.C.

ANDREW T. MCGUIRE,
General Counsel.

[F.R. Doc. 70–42; Filed, Jan. 2, 1970; 8:47 a.m.]

Chapter X—Office of Economic Opportunity

PART 1042—ASSIGNMENT, PLACEMENT, TRANSFER, AND SUPERVISION OF VISTA VOLUNTEERS

Subpart—Nondisplacement of Employed Workers

Chapter X of Title 45 of the Code of Federal Regulations is amended by adding a new Part 1042, reading as set forth above and a new subpart reading as follows:

Sec.
1042.1–1 Applicability of this subpart.
1042.1–2 Policy.
1042.1–3 Exceptions.

AUTHORITY: The provisions of this subpart issued under sec. 834, 81 Stat. 726, 42 U.S.C. 2994.

§ 1042.1–1 Applicability of this subpart.

(a) All VISTA volunteers and volunteer associates.

(b) All part-time volunteers serving in community service programs assisted under section 820 of the Economic Opportunity Act of 1964.

(c) All agencies and organizations to which VISTA volunteers and/or volunteer associates are assigned, or which receive financial assistance under title VIII of the Economic Opportunity Act of 1964, as amended.

§ 1042.1–2 Policy.

(a) Local agencies and organizations are prohibited from assigning (or permitting) VISTA volunteers, volunteer associates, and/or part-time (Citizens Corps) volunteers to perform activities or duties that would be otherwise performed by paid employees.

(b) Volunteers may not perform any services or duties which have been performed by, or assigned to, any of the following:

(1) Presently employed workers;

(2) Employees who recently resigned or were discharged;

(3) Employees who are on leave (terminal, temporary, emergency, or sick); or,

(4) Employees who are on strike or are being locked out.

(c) Volunteers may not perform any services or duties which should be otherwise performed by any employed worker as a result of the terms of the latter's employment.

§ 1042.1–3 Exceptions.

The requirements of § 1042.1–2 are not applicable to the following, or similar, situations:

(a) Funds are unavailable for the employment of sufficient staff to accomplish an appropriate OEO-approved program and the activity, service or duty is otherwise appropriate for the assignment of a volunteer.

(b) Volunteer services are required in order to avoid or relieve suffering threatened by or resulting from major natural disasters or civil disturbances.

(c) Reasonable efforts to obtain employed workers have been unsuccessful due to the unavailability of persons within the community who are able, willing, and qualified to perform the needed activities.

(d) The assignment of volunteers will significantly expand services to a target community over those which could be performed by existing paid staff, and the activity, service or duty is otherwise appropriate for the assignment of a volunteer, and no actual displacement of paid staff will occur as a result of the assignment.

Effective date. This subpart shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

PADRAIC KENNEDY,
Acting Director, VISTA.

[F.R. Doc. 70-44; Filed, Jan. 2, 1970; 8:47 a.m.]

PART 1042—ASSIGNMENT, PLACEMENT, TRANSFER, AND SUPERVISION OF VISTA VOLUNTEERS

Subpart—Volunteer Housing and Living Conditions

Chapter X, Part 1042, of Title 45 of the Code of Federal Regulations is amended by adding a new subpart reading as follows:

Sec.
1042.2-1 Applicability of this subpart.
1042.2-2 Policy.
1042.2-3 Standards.

AUTHORITY: The provisions of this subpart issued under sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1042.2-1 Applicability of this subpart.

This subpart shall apply to all VISTA volunteers including volunteer leaders and volunteer associates and all project sponsors including all agencies and organizations to which VISTA volunteers, volunteer leaders, and/or volunteer associates are assigned under section 810 of the Economic Opportunity Act of 1964.

§ 1042.2-2 Policy.

(a) VISTA will provide each volunteer a housing (lodging) allowance which does not exceed the actual cost to the volunteer of housing similar to what is occupied by the people served by the project.

(b) All project sponsors will locate permanent housing accommodations for individual volunteer(s) assigned (or to be assigned) within the specific area of the community being (or to be) served by such volunteer(s) at the lowest possible cost consistent with the health and safety of the volunteer(s) and with the effective operation of the sponsor's project.

(c) Project sponsors will make the necessary preliminary arrangements, except financing, to enable the volunteer(s) to occupy such housing, and no volunteer will utilize any housing accommodation, permanent or temporary, without the approval of his (or her) project sponsor.

§ 1042.2-3 Standards.

(a) Each sponsor must design its project and assign activities and duties to the individual volunteer in a manner which primarily benefits the residents of the immediate area of economic poverty in which the volunteer is housed.

(b) Each sponsor must ensure that the housing allowance provided by the volunteer(s) by VISTA is neither inadequate nor excessive.

(c) Each sponsor must ensure that a female volunteer is not required to live alone in any house or apartment.

(d) Each sponsor must make arrangements for temporary (2 weeks or less) lodging whenever:

(1) The volunteer(s) arrive before permanent housing is available.

(2) The need arises for substitute permanent housing for assigned volunteer(s).

(3) A female volunteer would otherwise be living alone.

Effective date. This subpart shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

PADRAIC KENNEDY,
Acting Director, VISTA.

[F.R. Doc. 70-45; Filed, Jan. 2, 1970; 8:47 a.m.]

PART 1042—ASSIGNMENT, PLACEMENT, TRANSFER, AND SUPERVISION OF VISTA VOLUNTEERS

Subpart—Reassignment, Detail or Transfer of Volunteers

Chapter X, Part 1042, of Title 45 of the Code of Federal Regulations is amended by adding a new subpart reading as follows:

Sec.
1042.3-1 Applicability of this subpart.
1042.3-2 Policy.

AUTHORITY: The provisions of this subpart issued under sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1042.3-1 Applicability of this subpart.

This subpart applies to all VISTA volunteers including volunteer leaders, and volunteer associates and all project sponsors including all agencies and organizations to which VISTA volunteers, volunteer leaders, and/or volunteer associates are assigned under section 810 of the Economic Opportunity Act of 1964.

§ 1042.3-2 Policy.

(a) No Volunteer will be reassigned, transferred, or detailed from any assignment except to an approved VISTA program and only after the VISTA Regional Administrator has specifically approved the reassignment, or transfer, in writing.

(b) No volunteer will be transferred, assigned, or detailed to any program in another region without the written approval of the VISTA Administrator of each region.

(c) Each such statement of approval must designate:

(1) The identity of the volunteer.

(2) The identity and location of the program sponsor losing the volunteer.

(3) The identity and location of the sponsor gaining the volunteer.

Effective date. This subpart shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

PADRAIC KENNEDY,
Acting Director, VISTA.

[F.R. Doc. 70-46; Filed, Jan. 2, 1970; 8:47 a.m.]

PART 1050—VISTA PROGRAMS AND PROJECT MANAGEMENT

Subpart—Gubernatorial Approval

Chapter X of Title 45 of the Code of Federal Regulations is amended by adding a new Part 1050, reading as set forth above and a new subpart reading as follows:

Sec.
1050.1-1 Applicability of this subpart.
1050.1-2 Policy.
1050.1-3 Responsibilities.

AUTHORITY: The provisions of this subpart issued under sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1050.1-1 Applicability of this subpart.

This subpart shall apply to all VISTA volunteers including volunteer leaders and volunteer associates, and all project sponsors including all agencies and organizations to which VISTA volunteers, volunteer leaders, and/or volunteer associates are assigned under section 810 of the Economic Opportunity Act (42 U.S.C. 2992).

§ 1050.1-2 Policy.

No volunteer shall be placed on, or detailed to, any project or program in any state unless and until the Governor has approved, in writing, the assignment of a definite number of volunteeers, to a specific sponsor, to perform designated tasks. Requests for gubernatorial consent will only be made after the appropriate OEO Regional Office has reviewed the proposed project or proposed change.

§ 1050.1-3 Responsibilities.

(a) Each sponsor will submit to the appropriate OEO Regional Office, in writing, a detailed description of the objectives of the proposed VISTA project and the anticipated activities of the volunteer, and of any material changes thereof.

(b) Each OEO Regional Office will prepare a project summary for each VISTA project, which will set forth the following information:

(1) The maximum number of volunteers which the sponsor has requested and has the capability to supervise.

(2) The name and complete address of the sponsoring agency.

(3) The type and the objectives of the proposed VISTA project.

(4) The activities and duties to be performed by volunteers.

(c) With respect to proposed VISTA projects, the OEO Regional Director or his designee will notify the Governor, by letter, of the intention to assign volunteers to the project sponsor within his

State, will furnish the Governor with a copy of the project summary, and will request the Governor's consent thereto.

(d) With respect to on-going VISTA projects, the OEO Regional Director or his designee will notify the Governor of, and request his consent to, any of the following changes:

(1) The maximum number of volunteers to be assigned.

(2) Substitution of the sponsoring agency.

(3) The scope of activities and duties to be performed by volunteers.

Effective date. This subpart shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

PADRAIC KENNEDY,
Acting Director, VISTA.

[F.R. Doc. 70-47; Filed, Jan. 2, 1970; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 69-WE-28-AD; Amdt. 39-904]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed Model L-188 Airplanes; Takeoff Aural Warning System

In an accident involving another model transport category airplane, it was determined that a possible contributing cause was the failure of the takeoff aural warning system to warn of an unsafe flap position on takeoff. The failure to warn resulted from the system not being armed by the power levers when setting takeoff thrust at the low ambient temperature then prevailing. Subsequently, the FAA issued Amendment 39-776, 34 F.R. 9027, AD 69-12-2, which required modification of the takeoff warning system together with related Airplane Flight Manual revisions.

Certain model L-188 airplanes have a similar type of takeoff warning system installed, and the same safety considerations are applicable. Accordingly, the agency considers that an AD is necessary for these L-188 airplanes to provide for arming the warning system at the lowest practicable temperature which may reasonably be expected in operations.

The L-188 aural warning system as originally installed is not armed until the power levers are advanced to about 84° of power lever travel. This corresponds to an ambient temperature of about plus 23° F. when setting takeoff power. When the takeoff warning arming switches are reset to be activated by power lever travel of 68°-70°, the corresponding ambient temperature at which the system will be armed is about minus 65° F.

Not all L-188 airplanes have a takeoff warning system, since this system was a customer option and not a certification requirement. The agency does not intend to make the installation of such a system a retrofit requirement. Accordingly, this AD is applicable only to those airplanes which have an aural takeoff warning installed.

AD 69-12-2 also required appropriate Airplane Flight Manual revisions. Similar revisions are not needed for L-188 airplanes since this information is already included in the Airplane Flight Manuals furnished with those airplanes having the original takeoff warning system installed.

The compliance time for the modification of the takeoff warning system is based on the availability of parts from the manufacturer together with a reasonable time for accomplishment by the operators without undue burden. However, the agency considers that this specified time is excessive in view of the safety aspect involved. Therefore, as an interim safety measure, the AD requires that a placard be installed in the cockpit to warn the pilot that the present warning system will not be armed below a certain ambient temperature when setting takeoff power.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedures hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, § 39.13 of Part 39 of the FARs is amended by adding the following new Airworthiness Directive:

LOCKHEED L-188 SERIES AIRPLANES. Applies to Lockheed L-188 airplanes listed in Lockheed Service Bulletin 88/5B-672, dated November 10, 1969, or later FAA-approved revisions, and to any other L-188 airplane which has the Lockheed takeoff warning system installed.

Compliance required as indicated.

To provide for arming the aural takeoff warning system at lower ambient temperatures, and to provide interim placard information to the flight crew on the present ambient temperature at which the system will not be armed, accomplish the following:

(a) Within 50 hours time in service after the effective date of this AD install a placard in the cockpit in full view of the pilot to read:

"Takeoff aural warning system will not be armed when setting takeoff power at ambient temperatuers below 23° F."

This placard may be removed when Item (b) is accomplished.

(b) Within 3,000 hours time in service, unless previously accomplished modify the arming switches installation in the takeoff warning system to provide for arming the switches at about 68°-70° power lever advancement in accordance with Lockheed Service Bulletin 88/SB-672 dated November 10, 1969, or later FAA-approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective on January 10, 1970.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., December 19, 1969.

ARVIN O. BASNIGHT,
Director, FAA, Western Region.

[F.R. Doc. 70-22; Filed, Jan. 2, 1970; 8:46 a.m.]

[Docket No. 9509; Amdt. Nos. 61-45; 121-55]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Training Programs

The purpose of these amendments to Part 61 and Subparts N, O, and P of Part 121 is to update procedures for the approval and revision of training programs; to provide for more extensive use of airplane simulators in training; to allow improvements in the operation of training programs and the quality of training provided for crewmembers and dispatchers; and to generally clarify these requirements.

These amendments were originally proposed by Notice 69-14 and published in the FEDERAL REGISTER on April 4, 1969 (34 F.R. 6112). Numerous comments were received from all aspects of the industry, and essentially all were in agreement with the agency's purpose as stated in the notice. There were, however, numerous specific comments that objected to particular items contained in Notice 69-14. The more significant of the comments received, and the disposition thereof, are discussed below as they apply to each section affected by these amendments. As a result of the comments received and the reexamination of its proposals, the FAA has made certain changes in the areas of section structure and clarification. In addition, certain changes have been made to ensure greater use of simulation equipment and use of the concept of training to a level of proficiency.

While the comments received were as varied as the groups and individuals who responded, certain general points emerged as the core of the objections and recommendations of the commentators. Some commentators stated that the extent to which the notice would permit use of flight simulation equipment and other training devices was so limited that it would impede the development of the agency's policy (as expressed in the fifth paragraph of the notice) and would fail to take full advantage of the current and potential development of simulation technology. Several commentators objected to what they believed was a requirement that the FAA must approve each training device and aid used in ground and flight training programs. Further, some commentators objected to what they believed was a disregard in the notice for the value of training to

an individual level of proficiency, and the adherence to minimum hours as the basis for satisfactory completion of training phases. Finally, recommendations were made to clarify the language used in the notice and to improve the section format.

PART 61

Section 61.147. Several comments were received strongly objecting to the proposed changes to this section. Generally speaking, comments focused on the proposals in paragraphs (d) and (e) to base increased use of simulators for ATPC checking or type rating requirements on a mandatory requirement for completion of a line evaluation program. As indicated in the discussion of § 121.434, administrative difficulties would arise if this provision for a line evaluation program was adopted. Therefore, in recognition of these difficulties, paragraph (d) has been revised and paragraph (e) deleted to remove the requirement of line evaluation from the section.

In addition, the revision of paragraph (d) transfer the maneuvers and procedures requirements to revised Appendix A of Part 61. Also, Appendix A has been revised to clearly provide the requirements and authorizations for performing the flight check set forth in § 61.147 in a chart format similar to Appendix F of Part 121.

PART 121

SUBPART N

Section 121.400. Three commentators responded to this section specifically, and all were opposed to it as proposed in the notice. Two of these commentators objected to aircraft groupings based on the type and number of power-plants, but suggested that if airplane groupings must be retained, the groupings be reduced to basically two—propeller driven and turbojet. One commentator further objected to such groupings as a basis for determining training requirements with regard to content and minimum hours. The third commentator recommended that a seventh group be added to those proposed in the notice to include airplanes of the "Jumbo Jet" and "SST" category.

The airplane groups proposed in the notice evolved from the theory that regulatory requirements for minimum hours of training must necessarily be established for each airplane by make and type. Experience has shown that this theory is no longer sound and in light of the FAA's continuing study and as a result of comments received, the number of groups has been reduced to two—propeller driven including reciprocating and turboprop, and turbojet. Objections to the use of minimum hours as a criterion for satisfactory completion of the training program will be dealt with in connection with another section. In addition, for the purpose of clarity and in response to the recommendation of a commentator, § 121.400 will now list and define separately, key items used throughout Subparts N and O.

Section 121.401. One commentator objected to paragraph (a)(4) as proposed because he felt that the language employed inferred that simulator training courses were mandatory. This is not the case, and in order to prevent further misinterpretations, the word "permitted" is substitued for the word "required" in paragraph (a)(4).

Another comment objected to the language in the second sentence of paragraph (e) which applied the 20 percent failure restriction to the flight checks given at a "particular base of operation." This objection is well taken in light of the fact that the place of the flight check may be different from the place where the training was obtained due to the fact that the checks are frequently given where planes are available on layover. Because the purpose of the section is to further the goal of training to a level of proficiency, the base where the training is given is the crucial location for applying the 20 percent failure restriction and that is reflected in this amendment.

Comments were also received in regard to the use of the concept of minimum hours of training. As pointed out in the discussion of § 121.400 above, the concept of an absolute minimum number of hours as a criterion for determining the effectiveness of the certificate holder's training program is no longer appropriate. As indicated in the results of two industry experimental programs conducted under FAA exemptions, the current and anticipated use of simulation equipment makes reliance on minimum hours obsolete in most cases. Therefore, this amendment substitutes the words "programmed hours" for "minimum hours." Section 121.400(c)(5) provides the definition for "programmed hours" and as indicated ties the concept to the air carrier's showing to the Administrator that less than the number of hours specified for training is justified. It is believed that use of the word "programmed" more clearly describes the position of the FAA that any provision for hours should be flexible. The concept of "programmed hours" as used throughout Subparts N and O has previously been discussed in Amendment 121–7, effective August 16, 1965.

In addition, this amendment adds a paragraph to the section to deal with a high failure rate situation where "programmed hours" are not specified in connection with a simulator course of training to a level of proficiency as permitted in § 121.409(c). Wherever in the notice there appeared the words "minimum hours" or "required hours", the change to "programmed hours" has been made without further discussion.

Finally, it should be pointed out that wherever the word "inflight" is used in the requirements of Subparts N and O it refers to maneuvers, procedures, or checks that must be conducted in the airplane.

Section 121.403. One of the comments received with regard to this section objected to the language of paragraph (b)(2) which the commentator believed conveyed the impression that all of the items listed had to be individually approved. This was not the meaning the FAA intended to convey in the notice. To prevent further misunderstanding, this amendment clarifies the section by revising paragraph (b)(2) to provide that the training devices listed in paragraph (b)(2) are all of those that the certificate holder intends to use in its program and with which it intends to support its application for approval of its training program. On the other hand, paragraph (b)(4) is intended to cover those simulators and other training devices which must be approved under § 121.407. If appropriate training requirements are approved based on certain of the devices or aids listed in the curriculum, the certificate holder will be required to use them in connection with all training conducted pursuant to that approval.

Comment was also received objecting to paragraph (b)(3). The commentator stated there was no justification for the inclusion of detailed descriptions or pictorial displays of the approved normal, abnormal, and emergency maneuvers, procedures, and functions inasmuch as this material appears in the FAA-approved flight manual or the certificate holder's operating manual. The justification for such a requirement is that it will help to standardize the certificate holder's training program, for it contemplates that the certificate holder will develop company policy concerning the details of performing the required maneuvers; and thereafter, provide appropriate instructions to all its flight instructors (including simulator instructors) and check airmen.

Section 121.405. Several comments were received addressed to this section, and those which were unfavorable objected to the proposed two-step approval process for training programs. One commentator stated that this approval process would defeat any possibility of attaining improved training methods in a reasonable length of time. It should be pointed out that the approval process of paragraph (a) is keyed to the provisions of paragraph (c) which require the certificate holder to show that the training conducted under the initial approval provisions of paragraph (b) insures that persons successfully completing the training program are adequately trained to perform their assigned duties. This requirement is the key to the concept of training to a level of proficiency, for it provides the certificate holder an opportunity to present to the Administrator, for approval, a training program which will be as effective as the certificate holder can make it.

Several commentators objected to the second sentence of proposed paragraph (d)(3) because they felt that a prohibition against allowing the Administrator to consider airplane simulators if the hours of flight training have been reduced under § 121.409(c) when permitting overall reductions in training hours, was too restrictive and contrary to the philosophy of the FAA as stated in the notice. Therefore, in light of these comments and to further the position of the agency relative to encouraging the use of simulation equipment, proposed paragraph (d)(3) has been deleted. Provisions covering credit for simulator programs relative to programed hours,

which also embodies the concept of training to a level of proficiency, are found in revised §§ 121.409, 121.424, and 121.425 of this amendment.

One commentator recommended that the provision in proposed paragraph (d) authorizing the Administrator to permit reductions in the number of training hours should be restricted to the extent that the Administrator could only permit a 10-percent reduction. In support of this recommendation the commentator states that without this limitation, the paragraph could potentially be used as a basis to argue that hours of training should be reduced every time a new aid is utilized or when experience shows that more than 80 percent of the students have passed a training course. This recommendation is considered too restrictive and it would not further the objective of the agency to provide for the present and future development of effective and practical training programs.

Finally, one commentator expressed concern that this section would require training programs currently approved and in existence to be reapproved under the proposed approach in every instance. It was not the intent of the notice to propose such a requirement and programs or simulators approved under prior regulations would not automatically require reapproval. However, this section would apply to any future revisions to existing approved programs which occur after the effective date of this amendment.

Section 121.407. Several commentators recommended that Appendix B, compliance with which was one of the proposed criteria for simulator approval, be deleted. Present Appendix B to Part 121 is based essentially on the engineering flight test objectives of the airplane type certification requirements. Thus, a simulator that is adjusted to meet the provisions of Appendix B may not necessarily simulate the airplane realistically in the operating and performance flight regimes normally associated with flight training and flight checks. Furthermore, since the current technology of airplane simulation makes realism readily available in those flight regimes, the requirements of Appendix B now appear to be too inflexible for approval of airplane simulators that will be used in Part 121 training programs. Accordingly, upon further consideration of this matter, Appendix B is deleted by this amendment. However, concurrent with this amendment, the FAA is issuing an advisory circular which sets forth guidance to the certificate holder for obtaining approval of an airplane simulator that will be used in the certificate holder's training program.

As pointed out in the discussion of § 121.403, the intent of § 121.407 is to require simulators and other training devices to be individually approved only when they are used in training courses permitted under § 121.409, in checks required under Subpart O of this part or as permitted in Appendices E and F to this part.

Two commentators objected to proposed paragraph (a)(4) (adopted herein as (a)(3)) stating that modifications are generally minor in nature with regard to performance, functional, or other characteristics. However, it should be noted that if a particular simulator is approved to simulate a particular airplane type's characteristics, any modification to that airplane which changes those characteristics would require reevaluation by the FAA of the simulator with regard to the maneuvers and procedures affected. However, if, as this subparagraph contemplates, the simulator can be modified to conform with modifications to the airplane, then no new approval would be required. Therefore, the FAA deems this provision to be desirable in order to ensure that any significant modification to the airplane being simulated be adequately provided for.

Finally, it will be noted that the substance of proposed paragraph (b) has been consolidated with paragraph (a).

Section 121.409. In response to comments received, and in light of further FAA consideration, the agency has determined that paragraph (c) as proposed does not go far enough in furthering the goal of training to an individual level of proficiency. As stated by one commentator, there does not appear to be sufficient justification for an arbitrary reduction in hours of up to 25 percent. This view is supported by the results of the two industry experimental programs mentioned above. Therefore, paragraph (c) has been revised to provide that the programmed hours of flight training, otherwise applicable, do not apply when the certificate holder uses a course of training in an airplane simulator (or other training device in the case of flight engineers) and the pilot or flight engineer is trained to a predetermined level of proficiency as provided in §§ 121.424 and 121.425.

For the purpose of clarification, the words "other training devices" are substituted for "synthetic trainers" so that consistency among terms will be achieved throughout the subparts.

Section 121.411. Comments were received with regard to paragraph (b)(1) stating that the language indicated that in requiring a simulator instructor to hold an airline transport pilot certificate, the FAA would also be requiring him to hold a Class I medical certificate. As proposed, paragraph (b)(1) would not require a simulator instructor to hold a Class I medical certificate as these commentators believe, since the regulations do not require the holder of an ATR to hold a Class I medical certificate if he does not exercise the pilot privileges for which a Class I medical certificate is required.

The last sentence of paragraph (c) which prohibits a pilot check airman who was designated as such prior to March 28, 1969, from supervising a line evaluation program under § 61.147 is not being adopted, since the proposal for line evaluation in § 61.147 has been deleted.

Section 121.413. Several comments received with regard to this section stated that the use of simulation equipment was not furthered by the provisions therein. While the FAA agrees that a change is required to permit greater use of simulation equipment in the training of check airmen and flight instructors, it is the position of the agency that paragraph (c)(1) should be retained as proposed in the notice, and that paragraphs (c) (2) and (3) be cited specifically as those requirements which may be met in an approved simulator. With regard to paragraph (c)(1), the FAA does not believe that the provision as proposed should be changed, because the check airman or flight instructor must be sufficiently trained in inflight training in the airplane so that he can adequately check or instruct on those aspects of training required to be performed in flight. Therefore, the amendment, through use of a flush paragraph at the end of paragraph (c), indicates that paragraphs (c) (2) and (3) may be complied with in an approved simulator.

In addition, the amendment changes the proposed section by revising the title and the provisions of the section to indicate that transition training as well as initial training is covered. Transition training as indicated in the notice and defined in § 121.400, is the training required to qualify a crewmember or dispatcher who has qualified and served in the same capacity in another airplane of the same group. As a practical matter, transition training represents the bulk of current training conducted by Part 121 certificate holders. Therefore, in this section and several others, reference to initial training will be revised to include transition training as well. This revision will be noted wherever it occurs in the balance of this amendment but will not be discussed further.

Section 121.415. Proposed § 121.415 was intended to establish the basic requirements for the various categories of training that the certificate holder must include in its approved training programs. However, the section was based on the assumption of the current rules that initial ground and flight training represented most of the essential air carrier training activity. As pointed out in the discussion of § 121.413, the above assumption is no longer valid, since the vast majority of training now involves transition and upgrade training. The FAA believes that because the section as proposed tended to be overly broad and generalized, misinterpretation and confusion was possible. Therefore, the section has been revised in order to clarify the requirements therein and to place the proper significance on transition training.

Specifically, the amendment sets forth the initial ground training (termed "basic indoctrination ground training") that must be provided for newly hired crewmembers and dispatchers. Also, certain specific training requirements proposed for this section, have been transferred to other sections which prescribe detailed requirements for specific training. In addition, the amendment clearly indicates that the section is, in part, in furtherance of the "show" provisions of § 121.405 by providing that subjects, maneuvers, or procedures may

be omitted, or programmed hours may be reduced, as provided in that section.

The FAA believes that the changes made to the proposed section give effect to several comments received which objected to the section as not contributing sufficiently to the concept of training to a level of proficiency, and as overly broad and generalized.

Section 121.417. A commentator stated that the language of proposed subparagraph (c)(2) implied that the evacuations contemplated were those conducted pursuant to Appendix D to Part 121, which is keyed to § 121.291. Accordingly, paragraph (c)(2) has been changed to read "Emergency evacuations", the intent being to remove the inference that Appendix D controls. In addition, one commentator stated that proposed paragraph (c) would not allow certificate holders to substitute video and audio aids, mock ups, or task simulators for the requirement that the listed emergency drills be performed by each crewmember. While the language of paragraph (c) states that demonstration may be substituted for performance, it is the position of the agency that this language would cover the devices the commentator mentioned, and allow certificate holders to utilize them in complying with the demonstration provision.

Other comments were received with regard to this section, but have not been adopted either because they are not sufficiently supported or because the FAA does not believe that they contribute to the purpose of the section to provide an in depth emergency training phase for all crewmembers.

Section 121.418. As part of the stated objective of this amendment to clarify the proposed regulations, the requirement for differences training, proposed to be placed in § 121.415, has been placed in this new section. With this change, § 121.415 will deal solely with the general flight and ground training requirements that must be included in the particular certificate holder's training program, and § 121.418 will cover only the general requirements for differences training.

Section 121.419. In response to several comments, and as indicated in the discussion of § 121.413, this section as proposed has been revised to include transition and upgrade ground training. In addition, the section has been changed to adopt the language "programmed hours" rather than merely "hours". Finally, the new airplane groups prescribed in § 121.400, have been reflected in this section with their appropriate programmed hours. These changes, considered desirable for purposes of clarification, apply in §§ 121.420, 121.421, and 121.422 dealing with flight navigator, flight attendant, and aircraft dispatcher ground training, respectively.

Section 121.424. As proposed, this section prescribed the specific details for flight training, taking those details from the current rule and Appendix E requirements. In line with this proposal, it was proposed to delete Appendix E. However, in light of several comments received and due to further FAA study, this amendment has substantially revised this section for the purpose of clarity, to incorporate the concept of training to a level of proficiency, and to provide for greater use of simulators.

In addition to other changes, this amendment retains Appendix E, but has revised its format and subject matter to include the specific requirements that were proposed for this section. This approach will result in a clearer indication of those maneuvers or procedures that may be performed in an airplane simulator, a training device, or a static airplane, as applicable.

Section 121.425. Both the comments and the changes made in regard to this section follow the same basic approach as in § 121.424. The same objectives sought for that section have been applied to this section as well in areas of clarification, use of airplane simulators and other training devices, and in providing for the concept of training to a level of proficiency.

Although it was recommended that paragraph (a)(2)(ii) be revised to delete the word "inflight" in order to permit the requirements therein to be performed in a simulator, the FAA believes that these elements of the flight check should be accomplished in the airplane in flight. However, it should be pointed out that the performance required may be demonstrated on training flights or other nonrevenue flights.

Section 121.426. To achieve greater clarity, the amendment has taken the requirements covering flight navigator initial and transition flight training out of § 121.415 as proposed, and placed them in this new section. This action is in accord with the objective stated in the revision of § 121.415 to limit that section to general requirements for the kinds of training that must be included in the particular training program. In addition, a new paragraph (b)(2) has been added to indicate that the flight training and checks required may be performed during Part 121 operations if under the supervision of a qualified flight navigator.

Section 121.427. As previously discussed, numerous comments were received objecting to the proposed airplane groups and, therefore, they have been revised. This section incorporates the revised groups prescribed in § 121.400. Those comments recommending a reduction in the number of programmed hours for recurrent ground training which were proposed have not been followed due to the fact that while these hours represent a minimum, they may be reduced in accordance with the "show" provisions of § 121.405. Therefore, if, in supporting its request for approval of a training program or a revision to a training program, the certificate holder can show that a reduction in hours is justified, it would not be bound by the hours prescribed. In the absence of such a showing, the FAA believes that these programmed hours of training must be met.

In addition, the requirements for pilot recurrent flight training have been amended to provide that the satisfactory completion of a proficiency check may be substituted for recurrent flight training as permitted in § 121.433.

SUBPART O

Section 121.432. Comment was received with regard to this section objecting to the language of paragraph (d), the commentator stating that it appears that a certificate holder would be prevented from conducting a company check during operations under Part 121. In light of this objection, paragraph (d) has been amended to indicate that certificate holders may conduct additional checks or training in operations under Part 121 at a frequency greater than that required by the regulations on those items listed in subparagraphs (1) through (5) of paragraph (d).

In addition, the last sentence of paragraph (d)(5) has been set forth as a flush paragraph at the end of paragraph (d). This was the original intent, but a printer's error resulted in its being located in (d)(5) of the proposal.

Also, comment was received recommending that the language in paragraph (c) be deleted and replaced with language currently appearing in § 121.437(e). However, it should be pointed out that § 121.437 deals only with the requirement of a certificate as part of pilot in command qualification. The language of paragraph (c) of proposed § 121.432 is intended to cover broader qualification requirements for one filling a position as second in command of an operation that requires three or more pilots and thus is not limited to one particular aspect of qualification as is § 121.437.

Finally, it will be noted that the airplane groups in paragraph (e) have been revised in accordance with § 121.400.

Section 121.433. Comments were received recommending that we delete, revise, or clarify paragraph (a)(1) which provides that a second in command pilot may, if properly qualified as a pilot in command, serve as a pilot in command. One commentator stated that the language in paragraph (a)(1) could be interpreted to mean that it was an alternative to the requirements of paragraph (a)(2). In addition, two commentators stated that the requirement that before a second in command who was qualified to act as pilot in command, could so act, he must have had pilot in command recurrent training within the preceding 30 days, was too restrictive.

The FAA agrees that this section should be changed for purposes of clarity, and, therefore, paragraph (a)(1) has been deleted and its requirements placed in other paragraphs of the section.

In addition, for purposes of clarity, the current requirement that a pilot in command must complete a proficiency check or recurrent flight training within the preceding 12 calendar months in each airplane in which he serves as pilot in command has been placed in a new paragraph (d). Also, paragraph (c) has been revised to clear up ambiguities concerning recurrent training.

Section 121.434. Although only a few comments were received concerning this

section, the section has been significantly revised in light of the FAA's reconsideration of the provisions and language used therein.

Inasmuch as the concept of line evaluation has been deleted throughout Subparts N and O of Part 121 and in § 61.147, the deletion is made in this section as well. This deletion is necessary due to administrative problems that require further study. In addition, the section has been revised to require the pilot in command to hold the appropriate pilot in command certificates and ratings before he performs the line experience. This change is necessary due to the deletion of the requirements of line evaluation discussed above. Thus, this section, prohibits the pilot from serving as pilot in command in operations under Part 121 until all training requirements needed to serve in that position have been satisfactorily completed. Also, the section has been further revised to require the pilot to be observed by an FAA inspector during at least one flight leg of the operating experience that includes a takeoff and landing if the certificate holder uses a course of training in an airplane simulator as provided in § 121.409(c). While this requirement is limited to the situation where the certificate holder utilizes a course of training in an airplane simulator as provided in § 121.409(c), the FAA will continue to follow its current practice of observing other pilot applicants when possible. In addition, the agency has been considering the feasibility of expanding efforts in this area, and in the near future will issue a notice of proposed rule making proposing to make the observation requirement applicable to all pilot applicants.

Section 121.440. Comment was received questioning the language in paragraph (b)(1) which was unclear as to whether the pilot check airman must be currently qualified on the route and airplane. The commentator cited the situation where a certificate holder would want to use an individual who was over 60 years old as a pilot check airman to conduct line checks. While the intent of the subparagraph is to require the check airman to be currently qualified both on the route and in the airplane, he can retain his qualification by meeting the currency requirements applicable to him, none of which require, or permit, him to act as a required flight crewmember. Thus, in the case of a person who is over 60 or the person who holds a Class III medical certificate, the regulations permit him to serve as pilot check airman, although he may not serve as a required flight crewmember.

The language of this section has been revised to more clearly indicate that a pilot check airman must be currently qualified on both the route and the airplane.

Section 121.441. Two commentators objected to the flush paragraph at the end of paragraph (a), which proposed that before a type rating flight check could be used in lieu of a proficiency check, Item V(d) must be performed in accordance with Appendix F of this part. Upon reexamination of this proposal, the FAA has determined that this provision is neither necessary nor consistent with the overall objectives set forth in the notice. Accordingly, it has been denied.

In addition, comment was received recommending that paragraph (f) be clarified because the language used indicated that a line check could be substituted for a proficiency check in meeting the requirements of this section. While such a meaning was not intended, in light of other revisions made by this amendment the paragraph is unnecessary and has been deleted.

In addition to the revisions discussed above with regard to specific sections of Subparts N and O of Part 121, revisions have also been made to the appendices. As discussed previously, Appendix B has been deleted, and Appendix E, proposed to be deleted in the notice, has been retained and revised with a new chart format. These changes were made for purposes of clarity, and the FAA believes they serve to clear up much of the confusion reflected in comments received.

Furthermore, Appendix F to Part 121 has been revised through use of a chart format. Again, the FAA believes this revision will help achieve greater clarity throughout the subparts. Several comments were received concerning Appendix F and dealt with proposed Items I(b), concerning preflight inspection, II(d), concerning powerplant failure, III(c), concerning ILS and other missed approaches, III(d), concerning circling approaches, and III(e), concerning instrument approaches. All of these comments were considered; however, the FAA believes that the present state of the art involving all Part 121 certificate holders is not, so advanced as to permit, at this time, adoption of the substantive changes recommended by the commentators.

In making the revisions set forth in this amendment, the FAA has sought to give effect to the broad objectives stated in the notice and reiterated in this preamble. The proposals set forth in the notice and the revisions herein are considered by the FAA to be the maximum possible at this time in light of the state of the art as applicable to all Part 121 certificate holders. The FAA is well aware of the rapid technological advancements which have been made, and will be made in the future in aviation generally, and in simulation equipment specifically. In keeping with this advancement, the FAA will continue to explore all possibilities for translating the new technology into effective regulations to permit the safest and most efficient training programs possible.

Interested persons have been given an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, Parts 61 and 121 of the Federal Aviation Regulations are amended, effective February 2, 1970, as follows:

1. By inserting a new paragraph (d) in § 61.147 to read as follows:

§ 61.147 Airplane rating: aeronautical skill.

* * * * * *

(d) The items specified in paragraph (a) of this section may be performed in the airplane simulator or other training device specified in Appendix A to this part for the particular item if—

(1) The airplane simulator or other training device meets the requirements of § 121.407 of this chapter; and

(2) In the case of the items preceded by an asterisk (*) in Appendix A, the applicant has successfully completed the training set forth in § 121.424(d) of this chapter.

However, the FAA inspector or designated examiner may require Items II(d), V(f), or V(g) of Appendix A to this part to be performed in the airplane if he determines that action is necessary to determine the applicant's competence with respect to that maneuver.

2. By amending Appendix A to Part 61 to read as follows:

APPENDIX A

PRACTICAL TEST REQUIREMENTS FOR AIRLINE TRANSPORT PILOT CERTIFICATES AND ASSOCIATED CLASS AND TYPE RATINGS

Throughout the maneuvers prescribed in this appendix, good judgment commensurate with a high level of safety must be demonstrated. In determining whether such judgment has been shown, the FAA inspector or designated examiner who conducts the check considers adherence to approved procedures, actions based on analysis of situations for which there is no prescribed procedure or recommended practice, and qualities of prudence and care in selecting a course of action.

Each maneuver or procedure must be performed inflight except to the extent that certain maneuvers or procedures may be performed in an airplane simulator with a visual system (visual simulator) or an airplane simulator without a visual system (nonvisual simulator) or may be waived as indicated by an X in the appropriate columns. A maneuver authorized to be performed in a nonvisual simulator may be performed in a visual simulator, and a maneuver authorized to be performed in a training device may be performed in a nonvisual or a visual simulator.

An asterisk (*) preceding a maneuver or procedure indicates that the maneuver or procedure may be performed in an airplane simulator or other training device as indicated, provided the applicant has successfully completed the training set forth in § 121.424(d) of this chapter.

When a maneuver or procedure is preceded by this symbol (#), it indicates that the FAA inspector or designated examiner may require the maneuver or procedure to be performed in the airplane if he determines such action is necessary to determine the applicant's competence with respect to that maneuver.

An X and asterisk (X*) indicates that a particular condition is specified in connection with the maneuver, procedure, or waiver provisions.

Maneuvers/Procedures	Required		Permitted			
	Simulated instrument conditions	Inflight	Visual simulator	Nonvisual simulator	Training device	Waiver provisions of § 61.147(c)
The procedures and maneuvers set forth in this appendix must be performed in a manner that satisfactorily demonstrates knowledge and skill with respect to—						
(1) The airplane, its systems and components;						
(2) Proper control of airspeed, configuration, direction, altitude, and attitude in accordance with procedures and limitations contained in the approved Airplane Flight Manual, check lists, or other approved material appropriate to the airplane type; and						
(3) Compliance with approved en route, instrument approach, missed approach, ATC, or other applicable procedures.						
I. Preflight:						
(a) Equipment examination (oral). As part of the practical test the equipment examination must be closely coordinated with and related to, the flight maneuvers portion but may not be given during the flight maneuvers portion. Notwithstanding § 61.21 the equipment examination may be given to an applicant who has completed a ground school that is part of an approved training program under Federal Aviation Regulations Part 121 for the airplane type involved and who is recommended by his instructor. The equipment examination must be repeated if the flight maneuvers portion is not satisfactorily completed within 60 days. The equipment examination must cover—	------	------	------	------	X	
(1) Subjects requiring a practical knowledge of the airplane, its powerplants, systems, components, operational, and performance factors;						
(2) Normal, abnormal, and emergency procedures, and the operations and limitations relating thereto; and						
(3) The appropriate provisions of the approved Airplane Flight Manual.						
(b) Preflight Inspection. The pilot must—						
(1) Conduct an actual visual inspection of the exterior and interior of the airplane, locating each item and explaining briefly the purpose of inspecting it; and	------	------	------	------	X	X*
(2) Demonstrate the use of the prestart check list, appropriate control system checks, starting procedures, radio and electronic equipment checks, and the selection of proper navigation and communications radio facilities and frequencies prior to flight.	------	------	------	X		
If a flight engineer is a required crewmember for the particular type airplane, the actual visual inspection may either be waived or it may be replaced by using an approved pictorial means that realistically portrays the location and detail of inspection items.						
(c) Taxiing. This maneuver includes taxiing, sailing, or docking procedures in compliance with instructions issued by the appropriate traffic control authority or by the FAA inspector or designated examiner.	------	X				
(d) Powerplant checks. As appropriate to the airplane type.	------	------	------	X		
II. Takeoffs:						
(a) Normal. One normal takeoff which, for the purpose of this maneuver, begins when the airplane is taxied into position on the runway to be used.	------	X				
*(b) Instrument. One takeoff with instrument conditions simulated at or before reaching an altitude of 100 feet above the airport elevation.	X	------	X			
(c) Cross wind. One cross wind takeoff, if practical under the existing meteorological, airport, and traffic conditions.	------	X*				
*#(d) Powerplant failure. One takeoff with a simulated failure of the most critical powerplant—	------	------	X			
(1) At the point after V_1 and before V_2 that in the judgment of the FAA inspector or designated examiner is appropriate to the airplane type under the prevailing conditions;						
(2) At a point as close as possible after V_1 when V_1 and V_2 (or V_1 and V_r) are identical; or						
(3) At the appropriate speed for nontransport category airplanes.						
(e) Rejected. A rejected takeoff performed in an airplane during a normal takeoff run after reaching a reasonable speed determined by giving due consideration to aircraft characteristics, runway length, surface conditions, wind direction and velocity, brake heat energy, and any other pertinent factors that may adversely affect safety or the airplane.	------	------	------	X	------	X*

Maneuvers/Procedures	Required		Permitted			
	Simulated instrument conditions	Inflight	Visual simulator	Nonvisual simulator	Training device	Waiver provisions of § 61.147(c)
III. Instrument Procedures:						
*(a) Area departure and area arrival. During each of these maneuvers the applicant must—	X	------	------	X	------	X*
(1) Adhere to actual or simulated ATC clearances (including assigned radials); and						
(2) Properly use available navigation facilities.						
Either area arrival or area departure, but not both, may be waived under § 61.147(c).						
*(b) Holding. This maneuver includes entering, maintaining, and leaving holding patterns. It may be performed under either area departure or area arrival.	X	------	------	X	------	X*
(c) ILS and other instrument approaches. There must be the following:						
*(1) At least one normal ILS approach	X	------	X			
(2) At least one manually controlled ILS approach with a simulated failure of one powerplant. The simulated failure should occur before initiating the final approach course and must continue to touchdown or through the missed approach procedure.	X	X				
(3) At least one nonprecision approach procedure that is representative of the nonprecision approach procedures that the applicant is likely to use.	X	------	X			
(4) Demonstration of at least one nonprecision approach procedure on a letdown aid other than the approach procedure performed under subparagraph (3) of this paragraph that the applicant is likely to use. If performed in a synthetic instrument trainer, the procedures must be observed by the FAA inspector or designated examiner, or if the applicant has completed an approved training course under Part 121 of this chapter for the airplane type involved, the procedures may be observed by a person qualified to act as an instructor or check airman under that approved training program.	X	------	------	------	X	
Each instrument approach must be performed according to any procedures and limitations approved for the approach facility used. The instrument approach begins when the airplane is over the initial approach fix for the approach procedure being used (or turned over to the final approach controller in the case of GCA approach) and ends when the airplane touches down on the runway or when transition to a missed approach configuration is completed. Instrument conditions need not be simulated below 100' above touchdown zone elevation.						
(d) Circling approaches. At least one circling approach must be made under the following conditions:	------	------	X	------	------	X*
(1) The portion of the circling approach to the authorized minimum circling approach altitude must be made under simulated instrument conditions.	X					
(2) The approach must be made to the authorized minimum circling approach altitude followed by a change in heading and the necessary maneuvering (by visual reference) to maintain a flight path that permits a normal landing on a runway at least 90° from the final approach course of the simulateed instrument portion of the approach.						
(3) The circling approach must be performed without excessive maneuvering, and without exceeding the normal operating limits of the airplane. The angle of bank should not exceed 30°.						
When the maneuver is performed in an airplane, it may be waived as provided in §61.147(c) if local conditions beyond the control of the pilot prohibit the maneuver or prevent it from being performed as required.						
*(e) Missed approaches. Each applicant must perform at least two missed approaches, with at least one missed approach from an ILS approach. A complete approved missed approach procedure must be accomplished at least once and, at the discretion of the FAA inspector or designated examiner, a simulated powerplant failure may be required during any of the missed approaches. These maneuvers may be performed either independently or in conduction with maneuvers required under sections III or V or this appendix. At least one must be performed inflight.	X	X*	X*			

Maneuvers/Procedures	Required		Permitted			
	Simulated instrument conditions	Inflight	Visual simulator	Nonvisual simulator	Training device	Waiver provisions of § 61.147(c)
IV. Inflight Maneuvers:						
*(a) Steep turns. At least one steep turn in each direction must be performed. Each steep turn must involve a bank angle of 45° with a heading change of at least 180° but not more than 360°.	X	------	------	X	------	X
*(b) Approaches to stalls. For the purpose of this maneuver the required approach to a stall is reached when there is a perceptible buffet or other response to the initial stall entry. Except as provided below, there must be at least three approaches to stalls as follows:	X	------	------	X	------	X*
(1) One must be in the takeoff configuration (except where the airplane uses only a zero-flap takeoff configuration).						
(2) One in a clean configuration						
(3) One in a landing configuration						
At the discretion of the FAA inspector or designated examiner, one approach to a stall must be performed in one of the above configurations while in a turn with a bank angle between 15° and 30°. Two out of the three approaches required by this paragraph may be waived as provided in § 61.147(c).						
*(c) Specific flight characteristics. Recovery from specific flight characteristics that are peculiar to the airplane type.	------	------	------	X	------	X
(d) Powerplant failures. In addition to the specific requirements for maneuvers with simulated powerplant failures, the FAA inspector or designated examiner may require a simulated powerplant failure at any time during the check.	------	X				
V. Landings and Approaches to Landings:						
Notwithstanding the authorizations for combining of maneuvers and for waiver of maneuvers, at least three actual landings (one to a full stop), must be made. These landings must include the types listed below but more than one type can be combined where appropriate:						
(a) Normal landing	------	X				
(b) Landing in sequence from an ILS instrument approach except that if circumstances beyond the control of the pilot prevent an actual landing, the FAA inspector or designated examiner may accept an approach to a point where, in his judgment, a landing to a full stop could have been made.	------	X*				
(c) Cross wind landing, if practical under existing meteorological, airport, and traffic conditions.	------	X*				
(d) Maneuvering to a landing with simulated failure of 50% of the available powerplants. The simulated loss of power must be on one side of the airplane (center and one outboard engine on three-engine airplanes), except that in turbojet powered airplanes, the maneuvers following may be substituted for this requirement:	------	X*				
(1) In the case of a four-engine turbojet powered airplane, maneuvering to a landing with simulated failure of the most critical powerplant, if a flight instructor in an approved training program under Part 121 of this chapter certifies to the Administrator that he has observed the applicant satisfactorily perform a landing in that type airplane with simulated failure of 50% of the available powerplants. However, these substitute maneuvers may not be used if the Administrator determines that training in the two-engine out landing maneuver provided in the training program is unsatisfactory.	------	X*				
(2) In the case of a three-engine airplane, maneuvering to a landing using an approved procedure that approximates the loss of two powerplants.	------	X				
*(e) Landing under simulated circling approach conditions, except that if circumstances beyond the control of the pilot prevent a landing, the FAA inspector or designated examiner may accept an approach to a point where, in his judgment, a landing to a full stop could have been made.	------	------	X*			
*#(f) A rejected landing, including a normal missed approach procedure, that is rejected approximately 50' over the runway and approximately over the runway threshold. This maneuver may be combined with instrument, circling, or missed approach procedures, but instrument conditions need not be simulated below 100' above the runway.	X*	------	X*			
*#(g) A no flap visual approach to a point where, in the judgment of the FAA inspector or designated examiner, a landing to a full stop on the appropriate runway could be made.	------	------	X*			
(h) For a single powerplant rating only, unless the applicant holds a commercial pilot certificate, he must accomplish accuracy approaches and spot landings that include a series of three landings from an altitude of 1,000' or less, with the engine throttled and 180° change in direction. The airplane must touch the ground in a normal landing attitude beyond and within 200' from a designated line. At least one landing must be from a forward slip. One hundred eighty degree approaches using two 90° turns with a straight base leg are preferred although circular approaches are acceptable.	------	X				
VI. Normal and Abnormal Procedures. Each applicant must demonstrate the proper use of as many of the systems and devices listed below as the FAA inspector or designated examiner finds are necessary to determine that the person being checked has a practical knowledge of the use of the systems and devices appropriate to the aircraft type:						
(a) Anti-icing and deicing systems	------	------	------	X		
(b) Auto-pilot systems	------	------	------	X		
(c) Automatic or other approach aid systems	------	------	------	X		
(d) Stall warning devices, stall avoidance devices, and stability augmentation devices.	------	------	------	X		
(e) Airborne radar devices	------	------	------	X		
(f) Any other systems, devices, or aids available	------	------	------	X		
(g) Hydraulic and electrical system failures and malfunctions	------	------	------	------	X	
(h) Landing gear and flap systems failures or malfunctions	------	------	------	------	X	
(i) Failure of navigation or communications equipment	------	------	------	X		
VII. Emergency Procedures. Each applicant must demonstrate the proper emergency procedures for as many of the emergency situations listed below as the FAA inspector or designated examiner finds are necessary to determine that the person being checked has an adequate knowledge of, and ability to perform, such procedures:						
(a) Fire inflight	------	------	------	X		
(b) Smoke control	------	------	------	X		
(c) Rapid decompression	------	------	------	X		
(d) Emergency descent	------	------	------	X		
(e) Any other emergency procedures outlined in the appropriate approved airplane flight manual.	------	------	------	X		

3. By amending Subpart N of Part 121 to read as follows:

Subpart N—Crewmember and Aircraft Dispatcher Training Program

§ 121.400 Applicability and terms used.

(a) This subpart prescribes the requirements applicable to each certificate holder for establishing and maintaining a training program for crewmembers and aircraft dispatchers and for approval and use of training devices in the conduct of the program.

(b) For the purpose of this subpart, airplane groups are as follows:

(1) *Group I.* Propeller driven, including—

(i) Reciprocating powered; and

(ii) Turbopropeller powered.

(2) *Group II.* Turbojet powered.

(c) For the purpose of this subpart, the following terms and definitions apply:

(1) *Initial training.* The training required for crewmembers and dispatchers who have not qualified and served in the same capacity on another airplane of the same group.

(2) *Transition training.* The training required for crewmembers and dispatchers who have qualified and served in the same capacity on another airplane of the same group.

(3) *Upgrade training.* The training required for crewmembers who have qualified and served as second in command

or flight engineer on a particular airplane type, before they serve as pilot in command or second in command, respectively, on that airplane.

(4) *Differences training.* The training required for crewmembers and dispatchers who have qualified and served on a particular type airplane, when the Administrator finds differences training is necessary before a crewmember serves in the same capacity on a particular variation of that airplane.

(5) *Programmed hours.* The hours of training prescribed in this subpart which may be reduced by the Administrator upon a showing by the certificate holder that circumstances justify a lesser amount.

(6) *Inflight.* Refers to maneuvers, procedures, or checks that must be conducted in the airplane.

§ 121.401 Training program: General.

(a) Each certificate holder shall—

(1) Establish, obtain the appropriate initial and final approval of, and provide, a training program that meets the requirements of this subpart and Appendices E and F and that insures that each crewmember, aircraft dispatcher, flight instructor and check airman is adequately trained to perform his assigned duties;

(2) Provide adequate ground and flight training facilities and properly qualified ground instructors for the training required by this subpart;

(3) Provide and keep current with respect to each airplane type and, if applicable, the particular variations within that airplane type, appropriate training material, examinations, forms, instructions, and procedures for use in conducting the training and checks required by this part; and

(4) Provide enough flight instructors, check airmen, and simulator instructors to conduct required flight training and flight checks, and simulator training courses permitted under this part.

(b) Whenever a crewmember or aircraft dispatcher who is required to take recurrent training, a flight check, or a competence check, takes the check or completes the training in the calendar month before or after the calendar month in which that training or check is required, he is considered to have taken or completed it in the calendar month in which it was required.

(c) Each instructor, supervisor, or check airman who is responsible for a particular ground training subject, segment of flight training, course of training, flight check, or competence check under this part shall certify as to the proficiency and knowledge of the crewmember, aircraft dispatcher, flight instructor, or check airman concerned upon completion of that training or check. That certification shall be made a part of the crewmember's or dispatcher's record.

(d) Training subjects that are applicable to more than one airplane or crewmember position and that have been satisfactorily completed in connection with prior training for another airplane or another crewmember position, need not be repeated during subsequent training other than recurrent training.

(e) A person who progresses successfully through flight training, is recommended by his instructor or a check airman, and successfully completes the appropriate flight check for a check airman or the Administrator, need not complete the programmed hours of flight training for the particular airplane. However, whenever the Administrator finds that 20 percent of the flight checks given at a particular training base during the previous 6 months under this paragraph are unsuccessful, this paragraph may not be used by the certificate holder at that base until the Administrator finds that the effectiveness of the flight training there has improved.

In the case of a certificate holder using a course of training permitted in § 121.409(c), the Administrator may require the programmed hours of inflight training in whole or in part, until he finds the effectiveness of the flight training has improved as provided in paragraph (e) of this section.

§ 121.403 Training program: Curriculum.

(a) Each certificate holder must prepare and keep current a written training program curriculum for each type of airplane with respect to dispatchers and each crewmember required for that type airplane. The curriculum must include ground and flight training required by this subpart.

(b) Each training program curriculum must include:

(1) A list of principal ground training subjects, including emergency training subjects, that are provided.

(2) A list of all the training devices, mockups, systems trainers, procedures trainers, or other training aids that the certificate holder will use.

(3) Detailed descriptions or pictorial displays of the approved normal, abnormal, and emergency maneuvers, procedures and functions that will be performed during each flight training phase or flight check, indicating those maneuvers, procedures and functions that are to be performed during the inflight portions of flight training and flight checks.

(4) A list of airplane simulators or other training devices approved under § 121.407, including approvals for particular maneuvers, procedures, or functions.

(5) The programmed hours of training that will be applied to each phase of training.

(6) A copy of each statement issued by the Administrator under § 121.405(d) for reduction of programmed hours of training.

§ 121.405 Training program and revision: Initial and final approval.

(a) To obtain initial and final approval of a training program, or a revision to an approved training program, each certificate holder must submit to the Administrator—

(1) An outline of the proposed program or revision, including an outline of the proposed or revised curriculum, that provides enough information for a preliminary evaluation of the proposed training program or revised training program; and

(2) Additional relevant information as may be requested by the Administrator.

(b) If the proposed training program or revision complies with this subpart, the Administrator grants initial approval in writing after which the certificate holder may conduct the training in accordance with that program. The Administrator then evaluates the effectiveness of the training program and advises the certificate holder of deficiencies, if any, that must be corrected.

(c) The Administrator grants final approval of the training program or revision if the certificate holder shows that the training conducted under the initial approval set forth in paragraph (b) of this section ensures that each person that successfully completes the training is adequately trained to perform his assigned duties.

(d) In granting initial and final approval of training programs or revisions, including reductions in programmed hours specified in this subpart, the Administrator considers the training aids, devices, methods, and procedures listed in the certificate holder's curriculum as set forth in § 121.403 that increase the quality and effectiveness of the teaching-learning process.

If approval of reduced programmed hours of training is granted, the Administrator provides the certificate holder with a statement of the basis for the approval.

(e) Whenever the Administrator finds that revisions are necessary for the continued adequacy of a training program that has been granted final approval, the certificate holder shall, after notification by the Administrator, make any changes in the program that are found necessary by the Administrator. Within 30 days after the certificate holder receives such notice, it may file a petition to reconsider the notice with the FAA Air Carrier District Office charged with the overall inspection of the certificate holder's operations. The filing of a petition to reconsider stays the notice pending a decision by the Administrator. However, if the Administrator finds that there is an emergency that requires immediate action in the interest of safety in air transportation, he may, upon a statement of the reasons, require a change effective without stay.

§ 121.407 Training program: Approval of airplane simulators and other training devices.

(a) Each airplane simulator and other training device that is used in a training course permitted under § 121.409, in checks required under Subpart O of this part or as permitted in Appendices E and F to this part must:

(1) Be specifically approved for—

(i) The certificate holder;

(ii) The type airplane and, if applicable, the particular variation within type, for which the training or check is being conducted; and

(iii) The particular maneuver, procedure, or crewmember function involved.

(2) Maintain the performance, functional, and other characteristics that are required for approval.

(3) Be modified to conform with any modification to the airplane being simulated that results in changes to performance, functional, or other characteristics required for approval.

(4) Be given a daily functional preflight check before being used.

(5) Have a daily discrepancy log kept with each discrepancy entered in that log by the appropriate instructor or check airman at the end of each training or check flight.

(b) A particular airplane simulator or other training device may be approved for use by more than one certificate holder.

§ 121.409 Training courses using airplane simulators and other training devices.

(a) Training courses utilizing airplane simulators and other training devices may be included in the certificate holder's approved training program for use as provided in this section.

(b) A course of training in an airplane simulator may be included for use as provided in § 121.441 if that course—

(1) Provides at least 4 hours of training at the pilot controls of an airplane simulator as well as a proper briefing before and after the training;

(2) Provides training in at least the procedures and maneuvers set forth in Appendix F to this part; and

(3) Is given by an instructor who meets the applicable requirements of § 121.411.

The satisfactory completion of the course of training must be certified by either the Administrator or a qualified check airman.

(c) The programmed hours of flight training set forth in this subpart do not apply if the training program for the airplane type includes—

(1) A course of pilot training and a flight check in an airplane simulator as provided in § 121.424(d); or

(2) A course of flight engineer training and a flight check in an airplane simulator or other training device as provided in § 121.425(c).

§ 121.411 Training program: Check airman and instructor qualifications.

(a) No certificate holder may use a person nor may any person serve as a flight instructor or check airman in a training program established under this subpart unless, with respect to the particular airplane type involved, that person—

(1) Holds the airman certificates and ratings that must be held in order to serve as a pilot in command, a flight engineer, or a flight navigator, as appropriate, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required in order to serve as a pilot in command, flight engineer, or flight navigator in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competence checks that are required in order to serve as a pilot in command, flight engineer, or flight navigator in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.413;

(5) In the case of a check airman, has been approved for the airplane and the check airman duties involved; and

(6) Holds at least a Class III medical certificate. However, pilot check airmen who have passed their 60th birthday or check airmen who do not hold an appropriate medical certificate may not serve as a flight crewmember in operations under this part.

(b) No certificate holder may use a person nor may any person serve as a simulator instructor for a course of training given in an airplane simulator as provided in § 121.409(b) unless that person—

(1) Holds an airline transport pilot certificate; and

(2) Has satisfactorily completed for a check airman or for the Administrator—

(i) Appropriate initial pilot ground training and ground training for a flight instructor as provided in § 121.413; and

(ii) A simulator flight training course in the type airplane simulator in which that person instructs as provided by § 121.409(c).

(c) Notwithstanding paragraphs (a) and (b) of this section, a person who was designated as a check airman, a flight instructor, or a simulator instructor before December 22, 1969, may continue to serve as such, with respect to the particular type airplane involved, without completing the training specified in § 121.413.

§ 121.413 Check airmen and flight instructors: Initial and transition training.

(a) The initial and transition ground training for pilot check airmen must include the following:

(1) Pilot check airman duties, functions, and responsibilities.

(2) The applicable Federal Aviation Regulations and the certificate holder's policy and procedures.

(3) The appropriate methods, procedures, and techniques for conducting the required checks.

(4) Proper evaluation of pilot performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics that could adversely affect safety.

(5) The appropriate corrective action in the case of unsatisfactory checks.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the airplane.

(b) The initial and transition ground training for pilot flight instructors must include the following:

(1) The fundamental principles of the teaching-learning process.

(2) Teaching methods and procedures.

(3) The instructor-student relationship.

However, subparagraphs (1), (2), and (3) are not required for the holder of a flight instructor certificate.

(c) The initial and transition flight training for pilot check airmen and pilot flight instructors must include the following:

(1) Enough inflight training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency maneuvers to insure his competence to conduct the pilot flight checks and flight training required by this part.

(2) The appropriate safety measures to be taken from either pilot seat for emergency situations that are likely to develop in training.

(3) The potential results of improper or untimely safety measures during training.

The requirements of subparagraphs (2) and (3) may be accomplished inflight or in an approved simulator.

(d) The initial and transition ground and flight training for flight engineer and flight navigator flight instructors and check airmen must be adequate to insure competence to perform their assigned duties.

§ 121.415 Crewmember and dispatcher training requirements.

(a) Each training program must provide the following initial and transition ground training as appropriate to the particular assignment of the crewmember or dispatcher:

(1) Basic indoctrination ground training for newly hired crewmembers or dispatchers including instruction in at least the following—

(i) Duties and responsibilities of crewmembers or dispatchers, as applicable;

(ii) Appropriate provisions of the Federal Aviation Regulations;

(iii) Contents of the certificate holder's operating certificate and operations specifications (not required for flight attendants); and

(iv) Appropriate portions of the certificate holder's operating manual.

(2) The initial and transition ground training specified in §§ 121.419 through 121.422, as applicable.

(3) Emergency training as specified in § 121.417 (not required for dispatchers).

Basic indoctrination ground training must consist of at least 40 programmed hours of instruction in the applicable subjects specified in paragraph (a) of this section unless reduced under § 121.405 or as specified in § 121.401(d).

(b) Each training program must provide the initial and transition flight training specified in §§ 121.424 through 121.426, as applicable.

(c) Each training program must provide recurrent ground and flight training as provided in § 121.427.

(d) Each training program must provide the differences training specified in § 121.418 if the Administrator finds that, due to differences between airplanes of the same type operated by the certificate holder, additional training is necessary to insure that each crewmember and dispatcher is adequately trained to perform his assigned duties.

(e) Upgrade training as specified in §§ 121.419 and 121.424 for a particular type airplane may be included in the

training program for crewmembers who have qualified and served as second in command pilot or flight engineer on that airplane.

(f) Particular subjects, maneuvers, procedures, or parts thereof specified in §§ 121.419 through 121.425 for transition or upgrade training, as applicable, may be omitted, or the programmed hours of ground instruction or inflight training may be reduced, as provided in § 121.405.

(g) In addition to initial, transition, upgrade, recurrent and differences training, each training program must also provide ground and flight training, instruction, and practice as necessary to insure that each crewmember and dispatcher—

(1) Remains adequately trained and currently proficient with respect to each airplane, crewmember position, and type of operation in which he serves; and

(2) Qualifies in new equipment, facilities, procedures, and techniques, including modifications to airplanes.

§ 121.417 Crewmember emergency training.

(a) Each training program must provide the emergency training set forth in this section with respect to each airplane type, model, and configuration, each required crewmember, and each kind of operation conducted, insofar as appropriate for each crewmember and the certificate holder.

(b) Emergency training must provide the following:

(1) Instruction in emergency assignments and procedures, including coordination among crewmembers.

(2) Individual instruction in the location, function, and operation of emergency equipment including—

(i) Equipment used in ditching and evacuation;

(ii) First aid equipment and its proper use; and

(iii) Portable fire extinguishers, with emphasis on type of extinguisher to be used on different classes of fires.

(3) Instruction in the handling of emergency situations including—

(i) Rapid decompression;

(ii) Fire in flight or on the surface;

(iii) Ditching and other evacuation;

(iv) Illness, injury, or other abnormal situations involving passengers or crewmembers; and

(v) Hijacking and other unusual situations.

(c) Each crewmember must perform at least the following emergency drills, utilizing the proper equipment and procedures, unless the Administrator finds that, with respect to a particular drill, the crewmember can be adequately trained by demonstration:

(1) Ditching.

(2) Emergency evacuations.

(3) Fire extinguishing and smoke control.

(4) Operation and use of emergency exits, including deployment and use of evacuation chutes.

(5) Use of crew and passenger oxygen.

(6) Removal of life rafts from the airplane, inflation of the life rafts, use of life lines, and boarding of passengers and crew.

(7) Donning and inflation of life vests and the use of other individual flotation devices.

(d) Crewmembers who serve in operations above 25,000 feet must receive instruction in the following:

(1) Respiration.

(2) Hypoxia.

(3) Duration of consciousness without supplemental oxygen at altitude.

(4) Gas expansion.

(5) Gas bubble formation.

(6) Physical phenomena and incidents of decompression.

§ 121.418 Differences training: Crewmembers and dispatchers.

(a) Differences training for crewmembers and dispatchers must consist of at least the following as applicable to their assigned duties and responsibilities:

(1) Instruction in each appropriate subject or part thereof required for initial ground training in the airplane unless the Administrator finds that particular subjects are not necessary.

(2) Flight training in each appropriate maneuver or procedure required for initial flight training in the airplane unless the Administrator finds that particular maneuvers or procedures are not necessary.

(3) The number of programmed hours of ground and flight training determined by the Administrator to be necessary for the airplane, the operation, and the crewmember or aircraft dispatcher involved.

Differences training for all variations of a particular type airplane may be included in initial, transition, upgrade, and recurrent training for the airplane.

§ 121.419 Pilots and flight engineers: Initial, transition, and upgrade ground training.

(a) Initial, transition, or upgrade ground training for pilots and flight engineers must include instruction in at least the following as applicable to their assigned duties:

(1) General subjects—

(i) The certificate holder's dispatch or flight release procedures;

(ii) Principles and methods for determining weight and balance, and runway limitations for takeoff and landing;

(iii) Enough meteorology to insure a practical knowledge of weather phenomena, including the principles of frontal systems, icing, fog, thunderstorms, and high altitude weather situations;

(iv) Air traffic control systems, procedures, and phraseology;

(v) Navigation and the use of navigation aids, including instrument approach procedures;

(vi) Normal and emergency communication procedures;

(vii) Visual cues prior to and during descent below DH or MDA; and

(viii) Other instructions as necessary to ensure his competence.

(2) For each airplane type—

(i) A general description;

(ii) Performance characteristics;

(iii) Engines and propellers;

(iv) Major components;

(v) Major airplane systems (i.e., flight controls, electrical, hydraulic); other systems as appropriate; principles of normal, abnormal, and emergency operations; appropriate procedures and limitations;

(vi) Procedures for avoiding severe weather situations and for operating in or near thunderstorms (including best penetrating altitudes), turbulent air (including clear air turbulence), icing, hail, and other potentially hazardous meteorological conditions;

(vii) Operating limitations;

(viii) Fuel consumption and cruise control;

(ix) Flight planning;

(x) Each normal and emergency procedure; and

(xi) The approved Airplane Flight Manual.

(b) Initial ground training for pilots and flight engineers must consist of at least the following programmed hours of instruction in the required subjects specified in paragraph (a) of this section and in § 121.415(a) unless reduced under § 121.405:

(1) Group I airplanes—

(i) Reciprocating powered, 64 hours; and

(ii) Turbopropeller powered, 80 hours.

(2) Group II airplanes, 120 hours.

§ 121.420 Flight navigators: Initial and transition ground training.

(a) Initial and transition ground training for flight navigators must include instruction in the subjects specified in § 121.419(a) as appropriate to his assigned duties and responsibilities and in the following with respect to the particular type airplane:

(1) Limitations on climb, cruise, and descent speeds.

(2) Each item of navigational equipment installed including appropriate radio, radar, and other electronic equipment.

(3) Airplane performance.

(4) Airspeed, temperature, and pressure indicating instruments or systems.

(5) Compass limitations and methods of compensation.

(6) Cruise control charts and data, including fuel consumption rates.

(7) Any other instruction as necessary to ensure his competence.

(b) Initial ground training for flight navigators must consist of at least the following programmed hours of instruction in the subjects specified in paragraph (a) of this section and in § 121.415 (a) unless reduced under § 121.405:

(1) Group I airplanes—

(i) Reciprocating powered, 16 hours; and

(ii) Turbopropeller powered; 32 hours.

(2) Group II airplanes, 32 hours.

§ 121.421 Flight attendants: Initial and transition ground training.

(a) Initial and transition ground training for flight attendants must include instruction in at least the following:

(1) General subjects—

(i) The authority of the pilot in command; and

(ii) Passenger handling, including the procedures to be followed in the case of deranged persons or other persons whose conduct might jeopardize safety.

(2) For each airplane type—

(i) A general description of the airplane emphasizing physical characteristics that may have a bearing on ditching, evacuation, and inflight emergency procedures and on other related duties;

(ii) The use of both the public address system and the means of communicating with other flight crewmembers, including emergency means in the case of attempted hijacking or other unusual situations; and

(iii) Proper use of electrical galley equipment and the controls for cabin heat and ventilation.

(b) Initial and transition ground training for flight attendants must include a competence check to determine ability to perform assigned duties and responsibilities.

(c) Initial ground training for flight attendants must consist of at least the following programmed hours of instruction in the subjects specified in paragraph (a) of this section and in § 121.415 (a) unless reduced under § 121.405:

(1) Group I airplanes—

(i) Reciprocating powered, 8 hours; and

(ii) Turbopropeller powered, 8 hours.

(2) Group II airplanes, 16 hours.

§ 121.422 Aircraft dispatchers: Initial and transition ground training.

(a) Initial and transition ground training for aircraft dispatchers must include instruction in at least the following:

(1) General subjects—

(i) Use of communications systems including the characteristics of those systems and the appropriate normal and emergency procedures;

(ii) Meteorology, including various types of meteorological information and forecasts, interpretation of weather data (including forecasting of en route and terminal temperatures and other weather conditions), frontal systems, wind conditions, and use of actual and prognostic weather charts for various altitudes;

(iii) The NOTAM system;

(iv) Navigational aids and publications;

(v) Joint dispatcher-pilot responsibilities;

(vi) Characteristics of appropriate airports;

(vii) Prevailing weather phenomena and the available sources of weather information; and

(viii) Air traffic control and instrument approach procedures.

(2) For each airplane—

(i) A general description of the airplane emphasizing operating and performance characteristics, navigation equipment, instrument approach and communication equipment, emergency equipment and procedures, and other subjects having a bearing on dispatcher duties and responsibilities;

(ii) Flight operation procedures including procedures specified in § 121.419 (a) (2) (vi);

(iii) Weight and balance computations;

(iv) Basic airplane preformance dispatch requirements and procedures;

(v) Flight planning including track selection, flight time analysis, and fuel requirements; and

(vi) Emergency procedures.

(3) Emergency procedures must be emphasized, including the alerting of proper governmental, company, and private agencies during emergencies to give maximum help to an airplane in distress.

(b) Initial and transition ground training for aircraft dispatchers must include a competence check given by an appropriate supervisor or ground instructor that demonstrates knowledge and ability with the subjects set forth in paragraph (a) of this section.

(c) Initial ground training for aircraft dispatchers must consist of at least the following programmed hours of instruction in the subjects specified in paragraph (a) of this section and in § 121.415(a) unless reduced under § 121.405:

(1) Group I airplanes—

(i) Reciprocating powered, 30 hours; and

(ii) Turbopropeller powered, 40 hours.

(2) Group II airplanes, 40 hours.

§ 121.424 Pilots: Initial, transition, and upgrade flight training.

(a) Initial, transition, and upgrade training for pliots must include flight training and practice in the maneuvers and procedures set forth in Appendix E to this part, as applicable.

(b) The maneuvers and procedures required by paragraph (a) of this section must be performed inflight except to the extent that certain maneuvers and procedures may be performed in an airplane simulator, an appropriate training device, or a static airplane as permitted in Appendix E to this part.

(c) Except as permitted in paragraph (d) of this section, the initial flight training required by paragraph (a) of this section must include at least the following programmed hours of inflight training and practice unless reduced under § 121.405:

(1) Group I airplanes—

(i) Reciprocating powered. Pilot in command, 10 hours; second in command, 6 hours; and

(ii) Turbopropeller powered. Pilot in command, 15 hours; second in command, 7 hours.

(2) Group II airplanes. Pilot in command, 20 hours; second in command, 10 hours.

(d) If the certificate holder's approved training program includes a course of training utilizing an airplane simulator under § 121.409(c), each pilot must successfully complete—

(1) Training and practice in the simulator in at least all of the maneuvers and procedures set forth in Appendix E to this part for initial flight training that are capable of being performed in an airplane simulator without a visual system; and

(2) A flight check in the simulator or the airplane to the level of proficiency of a pilot in command or second in command, as applicable, in at least the maneuvers and procedures set forth in Appendix F to this part that are capable of being performed in an airplane simulator without a visual system.

§ 121.425 Flight engineers: Initial and transition flight training.

(a) Initial and transition flight training for flight engineers must include at least the following:

(1) Training and practice in procedures related to the carrying out of flight engineer duties and functions. This training and practice may be accomplished either inflight, in an airplane simulator, or in a training device.

(2) A flight check that includes—

(i) Preflight inspection;

(ii) Inflight performance of assigned duties accomplished from the flight engineer station during taxi, runup, takeoff, climb, cruise, descent, approach, and landing;

(iii) Accomplishment of other functions, such as fuel management and preparation of fuel consumption records, and normal and emergency or alternate operation of all airplane flight systems, performed either inflight, in an airplane simulator, or in a training device.

(b) Except as permitted in paragraph (c) of this section, the initial flight training required by paragraph (a) of this section must include at least the same number of programmed hours of flight training and practice that are specified for a second in command pilot under § 121.424(c) unless reduced under § 121.405.

(c) If the certificate holder's approved training program includes a course of training utilizing an airplane simulator or other training device under § 121.409 (c), each flight engineer must successfully complete in the simulator or other training device—

(1) Training and practice in at least all of the assigned duties, procedures, and functions required by paragraph (a) of this section; and

(2) A flight check to a flight engineer level of proficiency in the assigned duties, procedures, and functions.

§ 121.426 Flight navigators: Initial and transition flight training.

(a) Initial and transition flight training for flight navigators must include flight training and a flight check that are adequate to insure his proficiency in the performance of his assigned duties.

(b) The flight training and checks specified in paragraph (a) of this section must be performed—

(1) Inflight or in an appropriate training device; or

(2) In operations under this part if performed under supervision of a qualified flight navigator.

§ 121.427 Recurrent training.

(a) Recurrent training must ensure that each crew member or dispatcher is

adequately trained and currently proficient with respect to the type airplane (including differences training, if applicable) and crewmember position involved.

(b) Recurrent ground training for crewmembers and dispatchers must include at least the following:

(1) A quiz or other review to determine the state of the crewmember's or dispatcher's knowledge with respect to the airplane and position involved.

(2) Instruction as necessary in the subjects required for initial ground training by § 121.415(a), as appropriate, including emergency training (not required for aircraft dispatchers).

(3) For flight attendants and dispatchers, a competence check as required by §§ 121.421(b) and 121.422(b), respectively.

(c) Recurrent ground training for crewmembers and dispatchers must consist of at least the following programmed hours unless reduced under § 121.405:

(1) For pilots and flight engineers—

(i) Group I, reciprocating powered airplanes, 16 hours;

(ii) Group I turbopropeller powered airplanes, 20 hours; and

(iii) Group II airplanes, 25 hours.

(2) For flight navigators—

(i) Group I reciprocating powered airplanes, 12 hours;

(ii) Group I turbopropeller powered airplanes, 16 hours; and

(iii) Group II airplanes, 16 hours.

(3) For flight attendants—

(i) Group I reciprocating powered airplanes, 4 hours;

(ii) Group I turbopropeller powered airplanes, 5 hours; and

(iii) Group II airplanes, 12 hours.

(4) For aircraft dispatchers—

(i) Group I reciprocating powered airplanes, 8 hours;

(ii) Group I turbopropeller powered airplanes, 10 hours; and

(iii) Group II airplanes, 20 hours.

(d) Recurrent flight training for flight crewmembers must include at least the following:

(1) For pilots, flight training in the maneuvers and procedures set forth in Appendix F to this part except as follows—

(i) The number of programmed inflight hours is not specified; and

(ii) Satisfactory completion of a proficiency check may be substituted for recurrent flight training as permitted in § 121.433(c).

(2) For flight engineers, flight training as provided by § 121.425(a) except as follows—

(i) The specified number of inflight hours is not required; and

(ii) The flight check, other than the preflight inspection, may be conducted in an airplane simulator or other training device.

(3) For flight navigators, enough inflight training and an inflight check to insure competency wih respect to operating procedures and navigation equipment to be used and familiarity with essential navigation information pertaining to the certificate holder's routes that require a flight navigator.

4. By amending the title of Subpart O to read as follows:

Subpart O—Crewmember Qualifications

5. By amending § 121.431 to read as follows:

§ 121.431 Applicability.

This subpart prescribes crewmember qualifications for all certificate holders except where otherwise specified.

6. By adding a new section after § 121.431 to read as follows:

§ 121.432 General.

(a) When a flight crewmember completes a check required by this subpart, the check airman who is responsible for the particular check shall certify as to the flight crewmember's proficiency. This certification shall be made a part of the flight crewmember's record.

(b) A flight crewmember who takes a check in the calendar month before, or the calendar month after, the month in which it becomes due, is considered to have taken that check during the month it became due.

(c) Except in the case of operating experience under § 121.434, a pilot who serves as second in command of an operation that requires three or more pilots must be fully qualified to act as pilot in command of that operation.

(d) No certificate holder may conduct a check or any training in operations under this part, except for the following checks and training required by this part or the certificate holder:

(1) Line checks for pilots.

(2) Flight navigator training conducted under the supervision of a flight navigator flight instructor.

(3) Flight navigator flight checks.

(4) Flight engineer checks (except for emergency procedures), if the person being checked is qualified and current in accordance with § 121.453(a).

(5) Flight attendant training and competence checks.

Except for pilot line checks and flight engineer flight checks, the person being trained or checked may not be used as a required crewmember.

(e) For the purposes of this subpart, the airplane groups prescribed in § 121.400 apply.

(f) For the purposes of this subpart, the terms and definitions in § 121.400 apply.

7. By amending § 121.433 to read as follows:

§ 121.433 Training required.

(a) *Initial training.* No certificate holder may use any person nor may any person serve as a required crewmember on an airplane unless that person has satisfactorily completed, in a training program approved under Subpart N of this part, initial ground and flight training for that type airplane and for the particular crewmember position, except as follows:

(1) Crewmembers who have qualified and served as a crewmember on another type airplane of the same group may serve in the same crewmember capacity upon completion of transition training as provided in § 121.415.

(2) Crewmembers who have qualified and served as second in command or flight engineer on a particular type airplane may serve as pilot in command or second in command, respectively, upon completion of upgrade training for that airplane as provided in § 121.415.

(b) *Differences training.* No certificate holder may use any person nor may any person serve as a required crewmember on an airplane of a type for which differences training is included in the certificate holder's approved training program unless that person has satisfactorily completed, with respect to both the crewmember position and the particular variation of the airplane in which he serves, either initial or transition ground and flight training, or differences training, as provided in § 121.415.

(c) *Recurrent training.* (1) No certificate holder may use any person nor may any person serve as a required crewmember on an airplane unless, within the preceding 12 calendar months—

(i) For flight crewmembers, he has satisfactorily completed recurrent ground and flight training for that airplane and crewmember position and a flight check, as applicable;

(ii) For flight attendants and dispatchers, he has satisfactorily completed recurrent ground training and a competence check; and

(iii) In addition, for pilots in command, he has satisfactorily completed, within the preceding 6 calendar months, recurrent flight training, in addition to the recurrent flight training required in subparagraph (1)(i) of this paragraph, in the airplanes in which he serves as pilot in command in operations under this part.

(2) For pilots, a proficiency check as provided in § 121.441 may be substituted for the recurrent flight training required by this paragraph and the approved simulator course of training under § 121.409(b) may be substituted for alternate periods of recurrent flight training required in that airplane, except as provided in paragraph (d) of this section.

(d) For each airplane in which a pilot serves as pilot in command, he must satisfactorily complete either recurrent flight training or a proficiency check within the preceding 12 calendar months.

8. By adding a new section after § 121.433 to read as follows:

§ 121.434 Operating experience.

(a) No certificate holder may use a person nor may any person serve as a required crewmember on an airplane unless he has completed, on that type airplane and in that crewmember position, the operating experience required by this section, except as follows:

(1) Crewmembers other than pilots in command may serve as provided herein for the purpose of meeting the requirements of this section.

(2) Pilots who are meeting the pilot in command requirements may serve as second in command.

(b) In acquiring the operating experience, crewmembers must comply with the following:

(1) In the case of a flight crewmember, he must hold the appropriate certificates and ratings for the crewmember position and the airplane, except that a pilot who is meeting the pilot in command requirements must hold the appropriate certificates and ratings for a pilot in command in the airplane.

(2) The experience must be acquired after satisfactory completion of the appropriate ground and flight training for the airplane and crewmember position.

(3) The experience must be acquired inflight during operations under this part.

However, separate operating experience is not required for variations within the same type airplane.

(c) Pilot crewmembers must acquire operating experience as follows:

(1) A pilot in command must—

(i) Perform the duties of a pilot in command under the supervision of a check pilot; and

(ii) In addition, if the certificate holder's approved training program includes a course of training in an airplane simulator under § 121.409(c), be observed performing those duties by an FAA inspector during at least one flight leg which includes a takeoff and landing.

(2) A second in command pilot must perform the duties of a second in command under the supervision of a check pilot or observe the performance of those duties on the flight deck.

(3) The hours of operating experience for all pilots are as follows:

(i) For initial training, 15 hours in Group I reciprocating powered airplanes, 20 hours in Group I turbopropeller powered airplanes, and 25 hours in Group II airplanes;

(ii) For transition training, except as provided in subparagraph (3)(iii) of this paragraph, 10 hours in Group I reciprocating powered airplanes, 12 hours in Group I turbopropeller powered airplanes, and 15 hours in Group II airplanes; and

(iii) In the case of transition training if the certificate holder's approved training program includes a course of training in an airplane simulator under § 121.409(c), each pilot must comply with the requirements set forth in subparagraph (3)(i) of this paragraph for initial training.

(d) A flight engineer must perform the duties of a flight engineer under the supervision of a check airman or a qualified flight engineer for at least the following number of hours:

(1) Group I reciprocating powered airplanes, 8 hours.

(2) Group I turbopropeller powered airplanes, 10 hours.

(3) Group II airplanes, 12 hours.

(e) A flight attendant must, for at least 5 hours, either perform the duties of a flight attendant under the supervision of a flight attendant supervisor or observe the performance of these duties. However, operating experience is not required for a flight attendant who has previously acquired such experience on an airplane of greater passenger capacity if the certificate holder shows that he has received sufficient ground training and practice for the airplane in which he is to serve.

(f) The hours of operating experience may be reduced to 50 percent of the hours required by this section by the substitution of one additional takeoff and landing for each hour of flight.

Notwithstanding the reductions in programmed hours permitted under §§ 121.405 and 121.409 of Subpart N of this part, the hours of operating experience are not subject to reduction other than as provided in paragraph (f) of this section.

9. By adding a new section after § 121.439 to read as follows:

§ 121.440 Line checks.

(a) No certificate holder may use any person nor may any person serve as pilot in command of an airplane unless, within the preceding 12 calendar months, that person has passed a line check in which he satisfactorily performs the duties and responsibilities of a pilot in command in one of the types of airplanes he is to fly.

(b) A pilot in command line check for domestic and flag air carrier pilots must—

(1) Be given by a pilot check airman who is currently qualified on both the route and the airplane; and

(2) Consist of at least a scheduled flight over a typical part of the air carriers route to which the pilot is normally assigned.

(c) A pilot in command line check for supplemental air carriers and commercial operators must—

(1) Be given by a pilot check airman who is currently qualified on the airplane; and

(2) Consist of at least one flight over a part of a Federal airway, foreign airway, or advisory route over which the pilot may be assigned.

10. By amending § 121.441 to read as follows:

§ 121.441 Proficiency checks.

(a) No certificate holder may use any person nor may any person serve as a required pilot flight crewmember unless that person has satisfactorily completed either a proficiency check, or an approved simulator course of training under § 121.409, as follows:

(1) For a pilot in command, a proficiency check within the preceding 12 calendar months and, in addition, within the preceding 6 calendar months, either a proficiency check or the simulator training.

(2) For all other pilots, a proficiency check within the preceding 24 calendar months and, in addition, within the preceding 12 calendar months, either a proficiency check or the simulator training.

The satisfactory completion of a type rating flight check under § 61.147 of this chapter satisfies the requirement for a proficiency check.

(b) Except as provided in paragraphs (c) and (d) of this section, a proficiency check must meet the following requirements:

(1) It must include at least the procedures and maneuvers set forth in Appendix F to this part unless otherwise specifically provided in that appendix.

(2) It must be given by the Administrator or a pilot check airman.

(c) An approved airplane simulator or other appropriate training device may be used in the conduct of a proficiency check as provided in Appendix F to this part.

(d) A person giving a proficiency check may, in his discretion, waive any of the maneuvers or procedures for which a specific waiver authority is set forth in Appendix F to this part if—

(1) The Administrator has not specifically required the particular maneuver or procedure to be performed;

(2) The pilot being checked is, at the time of the check, employed by a certificate holder as a pilot; and

(3) The pilot being checked is currently qualified for operations under this part in the particular type airplane and crewmember position (i.e., pilot in command, second in command) involved.

(e) If the pilot being checked fails any of the required maneuvers, the person giving the proficiency check may give additional training to the pilot during the course of the proficiency check. In addition to repeating the maneuvers failed, the person giving the proficiency check may require the pilot being checked to repeat any other maneuvers he finds are necessary to determine the pilot's proficiency. If the pilot being checked is unable to demonstrate satisfactory performance to the person conducting the check, the certificate holder may not use him nor may he serve in operations under this part until he has satisfactorily completed a proficiency check.

§ 121.442 [Deleted]

11. By deleting § 121.442.

§ 121.451 [Deleted]

12. By deleting § 121.451.

13. By amending § 121.453 to read as follows:

§ 121.453 Flight engineer qualifications.

(a) No certificate holder may use any person nor may any person serve as a flight engineer on an airplane unless, within the preceding 6 calendar months, he has had at least 50 hours of flight time as a flight engineer on that type airplane or the certificate holder or the Administrator has checked him on that type airplane and determined that he is familiar and competent with all essential current information and operating procedures.

(b) A flight check given in accordance with § 121.425(a)(2) satisfies the requirements of paragraph (a) of this section.

14. By amending § 121.463 to read as follows:

§ 121.463 Aircraft dispatcher qualifications.

(a) No domestic or flag air carrier may use any person nor may any person serve as an aircraft dispatcher for a particular type aircraft unless that person has, with respect to that aircraft, satisfactorily completed the following:

(1) Initial dispatcher training, except that a person who has satisfactorily completed such training for another type airplane of the same group need only complete the appropriate transition training.

(2) Differences training, if applicable.

(3) Within the preceding 12 calendar months, recurrent training unless the requirements of subparagraph (a)(1) of this paragraph have been met during that period.

(4) Operating familiarization consisting of at least 5 hours observing, from the flight deck, operations under this part, except that a person may serve as an aircraft dispatcher without meeting this requirement for 90 days after completion of initial dispatcher training. In addition, this requirement may be reduced to a minimum of 2½ hours by the substitution of one additional takeoff and landing for an hour of flight.

15. By deleting Appendix B to Part 121.

16. By amending Appendix E to Part 121 to read as follows:

APPENDIX E

The maneuvers and procedures required by section 121.424 for pilot initial, transition, and upgrade flight training are set forth in this appendix and must be performed inflight except to the extent that certain maneuvers and procedures may be performed in an airplane simulator with a visual system (visual simulator), an airplane simulator without a visual system (nonvisual simulator), a training device, or a static airplane as indicated by the appropriate symbol in the respective column opposite the maneuver or procedure.

Whenever a maneuver or procedure is authorized to be performed in a nonvisual simulator, it may be performed in a visual simulator; when authorized in a training device, it may pe performed in a visual or nonvisual simulator, and in some cases, a static airplane. Whenever the requirement may be performed in either a training device or a static airplane, the appropriate symbols are entered in the respective columns.

For the purpose of this appendix, the following symbols mean—

P = Pilot in Command (PIC).
S = Second in Command (SIC).
B = PIC and SIC.
F = Flight Engineer.
PJ = PIC transition Jet to Jet.
PP = PIC transition Prop. to Prop.
SJ = SIC transition Jet to Jet.
SP = SIC transition Prop. to Prop.
AT = All transition categories (PJ, PP, SJ, SP).
PS = SIC upgrading to PIC (same airplane).
SF = Flight Engineer upgrading to SIC (same airplane).
BU = Both SIC and Flight Engineer upgrading (same airplane).

FLIGHT TRAINING REQUIREMENTS

Maneuvers/Procedures	Initial training					Transition training					Upgrade training				
	A/P		Simulator			A/P		Simulator			A/P		Simulator		
	Inflight	Static	Visual simulator	Nonvisual simulator	Training device	Inflight	Static	Visual simulator	Nonvisual simulator	Training device	Inflight	Static	Visual simulator	Nonvisual simulator	Training device
As appropriate to the airplane and the operation involved, flight training for pilots must include the following maneuvers and procedures.															
I. Preflight:															
(a) Visual inspection of the exterior and interior of the airplane, the location of each item to be inspected, and the purpose for inspecting it.	----	B	----	----	----	----	AT	----	----	----	----	BU			
(b) Use of the prestart check list, appropriate control system checks, starting procedures, radio and electronic equipment checks, and the selection of proper navigation and communications radio facilities and frequencies prior to flight.	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU	
(c) Taxiing, sailing, and docking procedures in compliance with instructions issued by the appropriate Traffic Control Authority or by the person conducting the training.	B	----	----	----	----	AT	----	----	----	----	BU				
(d) Pretakeoff checks that include powerplant checks.	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU	
II. Takeoffs:															
(a) Normal takeoffs which, for the purpose of this maneuver, begin when the airplane is taxied into position on the runway to be used.	B	----	----	----	----	AT	----	----	----	----	BU				
(b) Takeoffs with instrument conditions simulated at or before reaching an altitude of 100' above the airport elevation.	----	----	B	----	----	----	----	AT	----	----	----	----	BU		
(c) Crosswind takeoffs	B	----	----	----	----	AT	----	----	----	----	BU				
(d) Takeoffs with a simulated failure of the most critical powerplant—	B	----	----	----	----	AT	----	----	----	----	BU				
(1) At a point after V_1 and before V_2 that in the judgment of the person conducting the training is appropriate to the airplane type under the prevailing conditions;															
(2) At a point as close as possible after V_1 when V_1 and V_2 (or V_1 and V_r) are identical; or															
(3) At the appropriate speed for nontransport category airplanes.															
(e) Rejected takeoffs accomplished during a normal takeoff run after reaching a reasonable speed determined by giving due consideration to aircraft characteristics, runway length, surface conditions, wind direction and velocity, brake heat energy, and any other pertinent factors that may adversely affect safety or the airplane.	B	----	----	----	----	AT	----	----	----	----	SF	----	PS		
Training in at least one of the above takeoffs must be accomplished at night.															
III. Flight Maneuvers and Procedures:															
(a) Turns with and without spoilers	B	----	----	----	----	----	----	----	AT	----	SF	----	----	PS	
(b) Tuck and Mach buffet	B	----	----	----	----	----	----	----	AT	----	SF	----	----	PS	
(c) Maximum endurance and maximum range procedures.	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU	
(d) Operation of systems and controls at the flight engineer station.	----	----	----	B	----	----	----	----	AT	----	----	----	----	PS	
(e) Runway and jammed stabilizer procedures.	B	----	----	----	----	----	----	----	AT	----	SF	----	----	PS	
(f) Normal and abnormal or alternate operation of the following systems and procedures:															
(1) Pressurization	----	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU
(2) Pneumatic	----	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU
(3) Air conditioning	----	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU
(4) Fuel and oil	----	B	----	----	B	----	AT	----	----	AT	----	BU	----	----	BU
(5) Electrical	----	B	----	----	B	----	AT	----	----	AT	----	BU	----	----	BU
(6) Hydraulic	----	B	----	----	B	----	AT	----	----	AT	----	BU	----	----	BU
(7) Flight control	----	B	----	----	B	----	AT	----	----	AT	----	BU	----	----	BU
(8) Anti-icing and deicing	----	----	----	B		----	----	----	AT	----	----	----	----	BU	
(9) Auto-pilot	----	----	----	B		----	----	----	AT	----	----	----	----	BU	
(10) Automatic or other approach aids	B	----	----	----		----	----	----	AT	----	SF	----	----	SP	
(11) Stall warning devices, stall avoidance devices, and stability augmentation devices.	B	----	----	----		----	----	----	AT	----	SF	----	----	PS	
(12) Airborne radar devices	----	----	----	B		----	----	----	AT	----	----	----	----	BU	
(13) Any other systems, devices, or aids available.	----	----	----	B		----	----	----	AT	----	----	----	----	BU	
(14) Electrical, hydraulic, flight control, and flight instrument system malfunctioning or failure.	----	B	----	----	B	----	AT	----	----	AT	----	BU	----	----	BU
(15) Landing gear and flap systems failure or malfunction.	----	B	----	----	B	----	AT	----	----	AT	----	BU	----	----	BU
(16) Failure of navigation or communications equipment.	----	----	----	B		----	----	----	AT	----	----	----	----	BU	

FLIGHT TRAINING REQUIREMENTS—Continued

Maneuvers/Procedures	Initial training					Transition training					Upgrade training				
	A/P		Simulator			A/P		Simulator			A/P		Simulator		
	Inflight	Static	Visual simulator	Nonvisual simulator	Training device	Inflight	Static	Visual simulator	Nonvisual simulator	Training device	Inflight	Static	Visual simulator	Nonvisual simulator	Training device
(g) Flight emergency procedures that include at least the following:															
(1) Powerplant, heater, cargo compartment, cabin, flight deck, wing, and electrical fires.	----	B	----	----	B	----	AT	----	----	AT	----	BU	----	----	BU
(2) Smoke control	----	B	----	----	B	----	AT	----	----	AT	----	BU	----	----	BU
(3) Powerplant failures	B	----	----	----	----	AT	----	----	----	----	BU	----	----	----	BU
(4) Fuel jettisoning	----	B	----	----	B	----	B	----	----	B	----	BU	----	----	BU
(5) Any other emergency procedures outlined in the appropriate flight manual.	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU	
(h) Steep turns in each direction. Each steep turn must involve a bank angle of 45° with a heading change of at least 180° but not more than 360°.	P	----	----	----	----	----	----	----	PJ	----	----	----	----	PS	
(i) Approaches to stalls in the takeoff configuration (except where the airplane uses only a zero-flap configuration), in the clean configuration, and in the landing configuration.	B	----	----	----	----	----	----	----	AT	----	SF	----	----	PS	
Training in at least one of the above configurations must be accomplished while in a turn with a bank angle between 15° and 30°.															
(j) Recovery from specific flight characteristics that are peculiar to the airplane type.	B	----	----	----	----	----	----	----	AT	----	SF	----	----	PS	
(k) Instrument procedures that include the following:															
(1) Area departure and arrival	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU	
(2) Use of navigation systems including adherence to assigned radials.	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU	
(3) Holding	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU	
(l) ILS instrument approaches that include the following:															
(1) Normal ILS approaches	B	----	----	----	----	AT	----	----	----	----	BU				
(2) Manually controlled ILS approaches with a simulated failure of one powerplant which occurs before initiating the final approach course and continues to touchdown or through the missed approach procedure.	B	----	----	----	----	AT	----	----	----	----	BU				
(m) Instrument approaches and missed approaches other than ILS which include the following:															
(1) Nonprecision approaches	----	----	B	----	----	----	----	AT	----	----	----	----	BU		
(2) In addition, at least one approach and missed approach procedure, other than ILS, that the trainee is likely to use.	----	----	----	B	----	----	----	----	AT	----	----	----	----	BU	
In connection with paragraphs III(k) and III(l), each instrument approach must be performed according to any procedures and limitations approved for the approach facility used. The instrument approach begins when the airplane is over the initial approach fix for the approach procedure being used (or turned over to the final approach controller in the case of GCA approach) and ends when the airplane touches down on the runway or when transition to a missed approach configuration is completed.															

FLIGHT TRAINING REQUIREMENTS—Continued

Maneuvers/Procedures	Initial training					Transition training					Upgrade training				
	A/P		Simulator			A/P		Simulator			A/P		Simulator		
	Inflight	Static	Visual simulator	Nonvisual simulator	Training device	Inflight	Static	Visual simulator	Nonvisual simulator	Training device	Inflight	Static	Visual simulator	Nonvisual simulator	Training device
(n) Circling approaches which include the following:	B	----	----	----	----	AT	----	----	----	----	BU				
(1) That portion of the circling approach to the authorized minimum altitude for the procedure being used must be made under simulated instrument conditions.															
(2) The circling approach must be made to the authorized minimum circling approach altitude followed by a change in heading and the necessary maneuvering (by visual reference) to maintain a flight path that permits a normal landing on a runway at least 90° from the final approach course of the simulated instrument portion of the approach.															
(3) The circling approach must be performed without excessive maneuvering, and without exceeding the normal operating limits of the airplane. The angle of bank should not exceed 30°.															
(o) Zero flap approaches	B	----	----	----	----	AT	----	----	----	----	BU				
(p) Missed approaches which include the following:															
(1) Missed approaches from ILS approaches.	B	----	----	----	----	AT	----	----	----	----	BU				
(2) Other missed approaches	----	----	B	----	----	----	----	AT	----	----	----	----	BU		
(3) Missed approaches that include a complete approved missed approach procedure.	----	----	B	----	----	----	----	AT	----	----	----	----	BU		
(4) Missed approaches that include a powerplant failure.	B	----	----	----	----	AT	----	----	----	----	BU				
IV. Landings and Approaches to Landings:															
(a) Normal landings	B	----	----	----	----	AT	----	----	----	----	BU				
(b) Landing and go around with the horizontal stabilizer out of trim.	B	----	----	----	----	----	----	AT	----	----	SF	----	PS		
(c) Landing in sequence from an ILS instrument approach.	B	----	----	----	----	AT	----	----	----	----	BU				
(d) Cross wind landing	B	----	----	----	----	AT	----	----	----	----	BU				
(e) Maneuvering to a landing with simulated failure of 50% of the available powerplants. The simulated loss of power must be on one side of the airplane (center and one outboard engine on three-engine airplanes).	B	----	----	----	----	AT	----	----	----	----	BU				
(f) Landing under simulated circling approach conditions.	B	----	----	----	----	AT	----	----	----	----	BU				
(g) Rejected landings that include a normal missed approach procedure after the landing is rejected. For the purpose of this maneuver the landing should be rejected at approximately 50′ and approximately over the runway threshold.	B	----	----	----	----	AT	----	----	----	----	BU				
(h) Zero flap landings if the Administrator finds that maneuver appropriate for training in the airplane.	P	----	----	----	----	PP PJ	----	----	----	----	PS				
(i) Manual reversion (if appropriate)	B	----	----	----	----	AT	----	----	----	----	BU				
Training in landings and approaches to landings must include the types and conditions provided in IV (a) through (i) but more than one type may be combined where appropriate.															
Training in at least one of the above landings must be accomplished at night.	B	----	----	----	----	AT	----	----	----	----	BU				

17. By amending Appendix F to Part 121 to read as follows:

APPENDIX F

The maneuvers and procedures required by section 121.441 for pilot proficiency checks are set forth in this appendix and must be performed inflight except to the extent that certain maneuvers and procedures may be performed in an airplane simulator with a visual system (visual simulator), an airplane simulator without a visual system (nonvisual simulator), or a training device as indicated by the appropriate symbol in the respective column opposite the maneuver or procedure.

Whenever a maneuver or procedure is authorized to be performed in a nonvisual simulator, it may also be performed in a visual simulator; when authorized in a training device, it may be performed in a visual or nonvisual simulator.

For the purpose of this appendix, the following symbols mean—

P=Pilot in Command.

B=Both Pilot in Command and Second in Command.

=A symbol and asterisk (B) indicates that a particular condition is specified in the maneuvers and procedures column.

#=When a maneuver is preceded by this symbol # it indicates the maneuver may be required in the airplane at the discretion of the person conducting the check.

Throughout the maneuvers prescribed in this appendix, good judgment commensurate with a high level of safety must be demonstrated. In determining whether such judgment has been shown, the person conducting the check considers adherence to approved procedures, actions based on analysis of situations for which there is no prescribed procedure or recommended practice, and qualities of prudence and care in selecting a course of action.

Maneuvers/Procedures	Required		Permitted			
	Simulated instrument conditions	Inflight	Visual simulator	Nonvisual simulator	Training device	Waiver provisions of § 121.441(d)
The procedures and maneuvers set forth in this appendix must be performed in a manner that satisfactorily demonstrates knowledge and skill with respect to—						
(1) The airplane, its systems and components;						
(2) Proper control of airspeed, configuration, direction, altitude, and attitude in accordance with procedures and limitations contained in the approved Airplane Flight Manual, the certificate holder's operations Manual, check lists, or other approved material appropriate to the airplane type; and						
(3) Compliance with approach, ATC, or other applicable procedures.						
I. Preflight:						
(a) Equipment examination (oral or written). As part of the practical test the equipment examination must be closely coordinated with, and related to, the flight maneuvers portion but may not be given during the flight maneuvers portion. The equipment examination must cover—	------	------	------	------	B	
(1) Subjects requiring a practical knowledge of the airplane, its powerplants, systems, components, operational, and performance factors;						
(2) Normal, abnormal, and emergency procedures, and the operations and limitations relating thereto; and						
(3) The appropriate provisions of the approved Airplane Flight Manual.						
The person conducting the check may accept, as equal to this equipment test, an equipment test given to the pilot in the certificate holder's ground school within the preceding 6 calendar months.						
(b) Preflight inspection. The pilot must—	------	------	------	------	B	B*
(1) Conduct an actual visual inspection of the exterior and interior of the airplane, locating each item and explaining briefly the purpose for inspecting it; and						
(2) Demonstrate the use of the prestart check list, appropriate control system checks, starting procedures, radio and electronic equipment checks, and the selection of proper navigation and communications radio facilities and frequencies prior to flight.						
If a flight engineer is a required crewmember for the particular type airplane, the actual visual inspection may either be waived under § 121.441(d) or it may be replaced by using an approved pictorial means that realistically portrays the location and detail of inspection items.						
(c) Taxiing. This maneuver includes taxiing (in the case of a second in command proficiency check to the extent practical from the second in command crew position), sailing, or docking procedures in compliance with instructions issued by the appropriate traffic control authority or by the person conducting the checks.	------	B				
(d) Powerplant checks. As appropriate to the airplane type	------	------	------	B		
II. Takeoffs:						
(a) Normal. One normal takeoff which, for the purpose of this maneuver, begins when the airplane is taxied into position on the runway to be used.	------	B*				
(b) Instrument. One takeoff with instrument conditions simulated at or before reaching an altitude of 100′ above the airport elevation.	B	------	B*			
(c) Crosswind. One crosswind takeoff, if practicable, under the existing meteorological, airport, and traffic conditions.	------	B*				
Requirements (a) and (c) may be combined, and requirements (a), (b), and (c) may be combined if (b) is performed inflight.						
#(d) Powerplant failure. One takeoff with a simulated failure of the most critical powerplant—	------	------	B			
(1) At a point after V_1 and before V_2 that in the judgment of the person conducting the check is appropriate to the airplane type under the prevailing conditions;						
(2) At a point as close as possible after V_1 when V_1 and V_2 (or V_1 and V_r) are identical; or						
(3) At the appropriate speed for nontransport category airplanes.						
(e) Rejected. A rejected takeoff may be performed in an airplane during a normal takeoff run after reaching a reasonable speed determined by giving due consideration to aircraft characteristics, runway length, surface conditions, wind direction and velocity, brake heat energy, and any other pertinent factors that may adversely affect safety or the airplane.	------	------	------	B*	------	B
III. Instrument Procedures:						
(a) Area departure and area arrival. During each of these maneuvers the applicant must—	B	------	------	B	------	B*
(1) Adhere to actual or simulated ATC clearances (including assigned radials); and						
(2) Properly use available navigation facilities.						
Either area arrival or area departure, but not both, may be waived under § 121.441(d).						
(b) Holding. This maneuver includes entering, maintaining, and leaving holding patterns. It may be performed in connection with either area departure or area arrival.	B	------	------	B	------	B
(c) ILS and other instrument approaches. There must be the following:						
(1) At least one normal ILS approach	B	------	B			
(2) At least one manually controlled ILS approach with a simulated failure of one powerplant. The simulated failure should occur before initiating the final approach course and must continue to touchdown or through the missed approach procedure.	B	B				
(3) At least one nonprecision approach procedure that is representative of the nonprecision approach procedures that the certificate holder is likely to use.	B	------	B			
(4) Demonstration of at least one nonprecision approach procedure on a letdown aid other than the approach procedure performed under subparagraph (3) of this paragraph that the certificate holder is approved to use. If performed in a training device, the procedures must be observed by a check pilot or an approved instructor.	B				B	

Maneuvers/Procedures	Required		Permitted			
	Simulated instrument conditions	Inflight	Visual simulator	Nonvisual simulator	Training device	Waiver provisions of § 121.441(d)
Each instrument approach must be performed according to any procedures and limitations approved for the approach facility used. The instrument approach begins when the airplane is over the initial approach fix for the approach procedure being used (or turned over to the final approach controller in the case of GCA approach) and ends when the airplane touches down on the runway or when transition to a missed approach configuration is completed. Instrument conditions need not be simulated below 100' above touchdown zone elevation.						
(d) Circling approaches. If the certificate holder is approved for circling minimums below 1000–3, at least one circling approach must be made under the following conditions—	------	------	B	------	------	B*
(1) The portion of the approach to the authorized minimum circling approach altitude must be made under simulated instrument conditions.	B					
(2) The approach must be made to the authorized minimum circling approach altitude followed by a change in heading and the necessary maneuvering (by visual reference) to maintain a flight path that permits a normal landing on a runway at least 90° from the final approach course of the simulated instrument portion of the approach.						
(3) The circling approach must be performed without excessive maneuvering, and without exceeding the normal operating limits of the airplane. The angle of bank should not exceed 30°.						
If local conditions beyond the control of the pilot prohibit the maneuver or prevent it from being performed as required, it may be waived as provided in §121.441(d): *Provided, however,* That the maneuver may not be waived under this provision for two successive proficiency checks. In addition, this maneuver may be waived for a second in command if the certificate holder's manual prohibits a second in command from performing a circling approach in operations under this part.						
(e) Missed approach.						
(1) Each pilot must perform at least one missed approach from an ILS approach.	------	B				
(2) Each pilot in command must perform at least one additional missed approach.	------	------	P			
A complete approved missed approach procedure must be accomplished at least once. At the discretion of the person conducting the check, a simulated powerplant failure may be required during any of the missed approaches. These maneuvers may be performed either independently or in conjunction with maneuvers required under sections III or V of this appendix.						
IV. Inflight Maneuvers:						
(a) Steep turns. At least one steep turn in each direction must be performed. Each steep turn must involve a bank angle of 45° with a heading change of at least 180° but not more than 360°.	P	------	------	P	------	P
(b) Approaches to stalls. For the purpose of this maneuver the required approach to a stall is reached when there is a perceptible buffet or other response to the initial stall entry. Except as provided below there must be at least three approaches to stalls as follows:	B	------	------	B	------	B*
(1) One must be in the takeoff configuration (except where the airplane uses only a zero-flap takeoff configuration).						
(2) One in a clean configuration						
(3) One in a landing configuration						
At the discretion of the person conducting the check, one approach to a stall must be performed in one of the above configurations while in a turn with the bank angle between 15° and 30°. Two out of the three approaches required by this paragraph may be waived.						
If the certificate holder is authorized to dispatch or flight release the airplane with a stall warning device inoperative the device may not be used during this maneuver.						
(c) Specific flight characteristics. Recovery from specific flight characteristics that are peculiar to the airplane type.	------	------	------	B	------	B
(d) Powerplant failures. In addition to specific requirements for maneuvers with simulated powerplant failures, the person conducting the check may require a simulated powerplant failure at any time during the check.	------	------	------	B		

Maneuvers/Procedures	Required		Permitted			
	Simulated instrument conditions	Inflight	Visual simulator	Nonvisual simulator	Training device	Waiver provisions of § 121.441(d)
V. Landings and Approaches to Landings:						
Landings and approaches to landings must include the types listed below, but more than one type may be combined where appropriate:						
(a) Normal landing	------	B				
(b) Landing in sequence from an ILS instrument approach except that if circumstances beyond the control of the pilot prevent an actual landing, the person conducting the check may accept an approach to a point where in his judgment a landing to a full stop could have been made.	------	B*				
(c) Crosswind landing, if practical under existing meteorological, airport, and traffic conditions.	------	B*				
(d) Maneuvering to a landing with simulated failure of 50% of the available powerplants. The simulated loss of power must be on one side of the airplane (center and one outboard engine on three-engine airplanes), except that in the case of a proficiency check for other than a pilot in command the simulated loss of power may be only the most critical powerplant. However, in turbojet power airplanes, the maneuvers in subparagraphs (1) and (2) may be substituted for this requirement in pilot in command recurrent (as distinguished from initial and transition) training and proficiency checks.	------	B*				
(1) In the case of a four-engine turbojet powered airplane, maneuvering to a landing with simulated failure of the most critical powerplant and performance, either in an approved simulator or in flight at altitude, of the maneuver with simulated failure of 50% of the available powerplants unless the Administrator determines that the training in this maneuver provided by the certificate holder is unsatisfactory.	------	B*	------	B*		
(2) In the case of a three-engine airplane, maneuvering to a landing using an approved procedure that approximates the loss of two powerplants.	------	B				
(e) If the certificate holder is approved for circling minimums below 1000–3, a landing under simulated circling approach conditions. However, when performed in an airplane, if circumstances beyond the control of the pilot prevent a landing, the person conducting the check may accept an approach to a point where in his judgment a landing to a full stop could have been made.	------	------	B*			
#(f) A rejected landing, including a normal missed approach procedure, that is rejected approximately 50' over the runway and approximately over the runway threshold. This maneuver may be combined with instrument, circling, or missed approach procedures, but instrument conditions need not be simulated below 100 feet above the runway.	------	------	B			
Notwithstanding the authorizations for combining and waiving of maneuvers and for the use of a simulator, for all pilot in command and initial second in command proficiency checks at least two actual landings (one to a full stop) must be made.	------	B				
VI. Normal and Abnormal Procedures:						
Each applicant must demonstrate the proper use of as many of the systems and devices listed below as the person conducting the check finds are necessary to determine that the person being checked has a practical knowledge of the use of the systems and devices appropriate to the airplane type:						
(a) Anti-icing and de-icing systems	------	------	------	B		
(b) Auto-pilot systems	------	------	------	B		
(c) Automatic or other approach aid systems	------	------	------	B		
(d) Stall warning devices, stall avoidance devices, and stability augmentation devices.	------	------	------	B		
(e) Airborne radar devices	------	------	------	B		
(f) Any other systems, devices, or aids available	------	------	------	B		
(g) Hydraulic and electrical system failures and malfunctions	------	------	------	------	B	
(h) Landing gear and flap systems failure or malfunction	------	------	------	------	B	
(i) Failure of navigation or communications equipment	------	------	------	B		
VII. Emergency Procedures:						
Each applicant must demonstrate the proper emergency procedures for as many of the emergency situations listed below as the person conducting the check finds are necessary to determine that the person being checked has an adequate knowledge of, and ability to perform, such procedure:						
(a) Fire in flight	------	------	------	B		
(b) Smoke control	------	------	------	B		

Maneuvers/Procedures	Required		Permitted			
	Simulated instrument conditions	Inflight	Visual simulator	Nonvisual simulator	Training device	Waiver provisions of § 121.441(d)
(c) Rapid decompression				B		
(d) Emergency descent				B		
(e) Any other emergency procedures outlined in the appropriate approved Airplane Flight Manual.				B		

(Secs. 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 22, 1969.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-2; Filed, Jan. 2, 1970; 8:45 a.m.]

[Airspace Docket 69-EA-143]

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

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Rome, N.Y., control zone (34 F.R. 4619).

The U.S. Air Force plans to decommission the Rome, N.Y. radiobeacon on or about December 31, 1969, to which reference is made in the description of the Rome, N.Y., control zone. It is necessary to delete the reference to the radiobeacon and insert the coordinates of the radiobeacon in lieu thereof.

Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and it may be made effective in less than 30 days.

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

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete: In the description of the Rome, N.Y., control zone "the Rome, N.Y., RBN extending from the 5-mile radius to 6 miles southeast of the RBN"; and insert in lieu thereof, "a point 43°10'08" N., 75°19'08" W. extending from the 5-mile radius zone to 6 miles southeast of said point".

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on December 16, 1969.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-23; Filed, Jan. 2, 1970; 8:46 a.m.]

[Airspace Docket No. 69-CE-65]

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

Alteration of Control Zone and Transition Area

On page 14736 of the FEDERAL REGISTER dated September 24, 1969, the Federal Aviation Administration published a supplemental notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Indianapolis, Ind.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendments.

No objections have been received and the amendments as so proposed are hereby adopted, subject to the following change:

The Eagle Creek Airpark longitude coordinate recited in the Indianapolis, Ind., transition area alteration as "longitude 86°17'45" W." is changed to read "longitude 86°17'40" W.".

This amendment shall be effective 0901 G.m.t., February 5, 1970.

(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 Kansas City, Mo., on December 5, 1969.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (34 F.R. 4557), the following control zone is amended to read:

INDIANAPOLIS, IND.

Within a 5-mile radius of Indianapolis Municipal (Weir-Cook) Airport (latitude 39°43'35" N., longitude 86°17'05" W.); within 2½ miles each side of the Indianapolis runway 13R ILS localizer northwest course, extending from the 5-mile radius zone to 14½ miles northwest of the OM; within 2 miles each side of the Indianapolis runway 4L ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the OM; within 2 miles each side of the Indianapolis runway 31L ILS localizer southeast course, extending from the 5-mile radius zone to 1 mile northwest of the OM; and within 2½ miles each side of the Indianapolis runway 22R ILS localizer northeast course, extending from the 5-mile radius zone to 14½ miles northeast of the OM.

(2) In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

INDIANAPOLIS, IND.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Indianapolis Municipal (Weir-Cook) Airport (latitude 39°43'35" N., longitude 86°17'05" W.); within a 5½-mile radius of Bob Shank Airport (latitude 39°49'15" N., longitude 86°14'30" W.); within a 5½-mile radius of Eagle Creek Airpark (latitude 39°49'45" N., longitude 86°17'45" W.); and within 3 miles each side of the Indianapolis VORTAC 257° radial, extending from the 5½- and 9-mile radii to 8 miles west of the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 40°07'00" N., longitude 87°23'00" W.; to latitude 40°07'00" N., longitude 86°00'00" W.; to latitude 40°00'00" N., longitude 86°00'00" W.; to latitude 40°00'00" N., longitude 85°30'00" W., to latitude 39°30'00" N., longitude 85°30'00" W., to latitude 39°30'00" N., longitude 86°06'00" W.; to latitude 38°57'00" N., longitude 86°06'00" W.; to latitude 38°57'00" N., longitude 88°00'00" W.; north along longitude 88°00'00" W., to the north edge of V-50; thence to the point of beginning.

[F.R. Doc. 70-24; Filed, Jan. 2, 1970; 8:46 a.m.]

[Airspace Docket No. 69-SO-132]

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

Alteration of Control Zone and Transition Area

On November 13, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 18175), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Elizabeth City, N.C., control zone and transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 5, 1970, as hereinafter set forth.

In § 71.171 (34 F.R. 4557), the Elizabeth City, N.C., control zone is amended to read:

ELIZABETH CITY, N.C.

Within a 5-mile radius of CGAS Elizabeth City (lat. 36°15'35" N., long. 76°10'20" W.); within 3 miles each side of Elizabeth City VOR 195° radial, extending from the 5-mile radius zone to 8.5 miles south of the VOR; within 2.5 miles each side of Elizabeth City VOR 357° radial, extending from the 5-mile radius zone to 8.5 miles north of the VOR. This control zone is effective from 0700 to 2200 hours, local time, daily.

In § 71.181 (34 F.R. 4637), the Elizabeth City, N.C., transition area is amended to read:

ELIZABETH CITY, N.C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of CGAS Elizabeth City (lat. 36°-15'35" N., long. 76°10'20" W.); within 3 miles each side of the 127° bearing from Weeksville RBN, extending from the 8.5-mile radius area to 8.5 miles southeast of the RBN; within 8 miles east and 5 miles west of Elizabeth City VOR 195° radial, extending from the 8.5-mile radius area to 12 miles south of the VOR; within 3 miles each side of Elizabeth City VOR 357° radial, extending from the 8.5-mile radius area to 8.5 miles north of the VOR; excluding the portion within R-5301B.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on December 22, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-25; Filed, Jan. 2, 1970; 8:46 a.m.]

[Airspace Docket No. 69-CE-123]

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 Wichita, Kans., transition area.

Since designation of controlled airspace in the Wichita, Kans., terminal area, the instrument approach procedures for the Augusta, Kans., Municipal Airport have been cancelled with the result that the portion of the Wichita transition area which provided controlled airspace protection for aircraft executing these procedures is no longer required. Consequently, action is taken herein to alter the Wichita, Kans., transition area to delete this airspace from the designation.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., February 5, 1970, as hereinafter set forth:

In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

WICHITA, KANS.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Wichita Municipal Airport (latitude 37°39'10" N., longitude 97°25'45" W.); within 5 miles east and 8 miles west of the Wichita Municipal Airport ILS localizer south course, extending from the 8-mile radius area to 12 miles south of the OM; within an 8-mile radius of McConnell AFB (latitude 37°37'25" N., longitude 97°16'00" W.); within 2 miles each side of the McConnell AFB ILS localizer south course, extending from the 8-mile radius area to 8 miles south of the OM; within a 5-mile radius of Piper Airpark (latitude 37°44'45" N., longitude 97°13'20" W.); and within 2 miles each side of the 344° bearing from Piper Airpark extending from the 5-mile radius area to 6 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the INT of the north boundary of V-516 and longitude 96°29'00" W.; thence extending northwest to the INT of a line 10 miles southeast and parallel to the Emporia, Kans., VORTAC 209° radial and latitude 37°10'00" N., thence northeast along a line 10 miles southeast of and parallel to the Emporia VORTAC 209° radial to the Emporia VORTAC 134° radial, thence northwest along the Emporia VORTAC 134° and 314° radials to and west along the north boundary of V-10 to and northeast along the west boundary of V-77 to and southwest along the southeast boundary of V-280 to and east along the north boundary of V-10 to longitude 97°15'00" W., thence southwest to latitude 38°00'30" N., longitude 97°28'00" W., thence southwest to the INT of the northwest boundary of V-12N and longitude 97°56'25" W., thence southwest along the northwest boundary of V-12N to and south along the west boundary of V-125 to, and southeast along the southwest boundary of V-74 to the Ponca City, Okla., VORTAC 217° radial, thence northeast along the Ponca City VORTAC 217° and 047° radials to and northeast along the northwest boundary of V-516 to the point of beginning; and that airspace extending upward from 3,500 feet MSL bounded by a line beginning at the INT of the north boundary of V-516 and longitude 96°29'00" W., thence northwest to the INT of a line 10 miles southeast of and parallel to the Emporia, Kans., VORTAC 209° radial and latitude 37°10'00" N., thence northeast along a line 10 miles southeast of and parallel to the Emporia VORTAC 209° radial to, and southeast along the southwest boundary of V-132 to, and southeast along a line 12 miles southwest of and parallel to the Chanute, Kans., VOR 334° and 154° radials to, and south along the west boundary of V-131 to, and southwest along the northwest boundary of V-516 to the point of beginning, excluding the portions which overlie the Ponca City, Okla., and Emporia, Kans., transition area.

(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 Kansas City, Mo., on December 5, 1969.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-26; Filed, Jan. 2, 1970; 8:46 a.m.]

[Airspace Docket No. 69-SO-92]

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

Alteration of Control Zone and Transition Area

On December 5, 1969, F.R. Doc. 69-14444 was published in the FEDERAL REGISTER (34 F.R. 19245), amending Part 71 of the Federal Aviation Regulations by altering the Biloxi, Miss., control zone and Gulfport, Miss., transition area.

In the amendment, the Gulfport, Miss. transition area was amended in its entirety.

Subsequent to publication of the rule, it was determined that the phrase "700-foot" was inadvertently omitted from the citation, thereby revoking the 1,200-foot portion of the Gulfport transition area. It is necessary to amend the FEDERAL REGISTER document to correct this discrepancy. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to amend the FEDERAL REGISTER document accordingly.

In consideration of the foregoing, effective immediately, F.R. Doc. 69-14444 is amended as follows:

In paragraph five, lines one and two "* * * Gulfport, Miss., transition area * * *" is deleted and "* * * Gulfport, Miss., 700-foot transition area * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on December 17, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-27; Filed, Jan. 2, 1970; 8:46 a.m.]

[Airspace Docket No. 69-SO-124]

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 Picayune, Miss., transition area.

The Picayune transition area is described in § 71.181 (34 F.R. 4637). In the description, an extension is predicated on the Picayune VOR 332° radial and has a designated width of 2 miles each side of the radial and a length of 8 miles.

U.S. Standards for Terminal Instrument Procedures (TERPs), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures was revised to conform to TERPs and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the description by redesignating the extension predicated on the 332° radial to the 334° radial and increasing the width from 4 to 6 miles and the length from 8 to 8.5 miles.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 12, 1970, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Picayune, Miss., transition area is amended to read:

PICAYUNE, MISS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Picayune Municipal Airport (lat. 30°-31'20" N., long. 89°42'25" W.); within 3 miles each side of the Picayune VOR 334° radial, extending from the 5-mile radius area to 8.5 miles northwest of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on December 17, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-28; Filed, Jan. 2, 1970; 8:46 a.m.]

[Airspace Docket No. 69-SO-159]

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 Manning, S.C., transition area.

The Manning transition area is described in § 71.181 (34 F.R. 4637). In the description, the basic radius circle is designated as 8 miles.

Since the last alteration of controlled airspace at Manning, the AL-5510-VOR 1 instrument approach procedure has been converted to comply with Terminal Instrument Procedures (TERPs) and does not authorize the utilization of this airport by turbojet aircraft. Accordingly, it is necessary to alter the transition area by reducing the basic radius circle from 8 to 6.5 miles. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary and action is taken herein to alter the description.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Manning, S.C., transition area is amended as follows:

"* * * 8-mile radius * * *" is deleted and "* * * 6.5-mile radius * * *" is substituted therefor, wherever it appears.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on December 22, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-29; Filed, Jan. 2, 1970; 8:46 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-602; Docket No. 21310; Amdt. 9]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of December 1969.

On August 15, 1969, by notice of rule making, EDR-168 and PSDR-23 (34 F.R. 13610), the Board proposed to amend Parts 288 and 399 of the regulations by establishing new minimum rates with respect to certain foreign and overseas air transportation performed for the Department of Defense.[1] Written data, views, and arguments have been filed in response to the notice by all but two of the carriers which submitted cost forecasts[2] and by the Department of Defense (DOD). All comments and supporting materials before the Board have been carefully considered, and all contentions not otherwise disposed of herein are rejected.

Upon consideration of the comments, the Board has determined to extend the existing minimum rates by extending the term of Part 288 for an indefinite future period and to terminate this proceeding.[3]

The new rates proposed in the Board's notice were based on cost experience and cost forecasts submitted by the carriers and reflected an overall reduction from existing rates estimated to average approximately 7 percent.[4] However, the experienced cost data relied upon (which covered the year ended September 30, 1968, plus some known increases) are now over a year old, and in the light of two significant factors the passage of time has rendered much of the data obsolete.

First, since the base period, and especially in recent months, the carriers have been subject to very severe inflationary pressures. Many of the cost increases are still not reflected in reported results, particularly in the area of wage settlements, where contracts frequently have provided for increases in stages and where a number of agreements have been signed very recently. The DOD's review of the carriers' comments and data led it to conclude that an allowance for wage increases of ten percent for fiscal 1970 and an additional 10 percent for fiscal 1971 might be warranted. In addition, several carriers contended that sizeable increases have occurred in prices which must be paid for materials and for fuel.

While normally the carriers are able to offset the impact of inflation by realizing cost savings through productivity increases and continuing efficiencies, there is no gainsaying that inflationary factors subsequent to the base period, and especially since fiscal 1969, have been extreme, without any surcease in view. Recognition has been given by the Board to the impact of inflationary cost increases on air carrier earnings and profit margins in a number of recent rate actions, and it would not be realistic to ignore the current uncertain economic situation when making a final evaluation of the MAC rates.

The second basic factor which has changed since we proposed the lower rates is the extent of the MAC purchasing requirement. Scheduled charter trips in the new fiscal year have been canceled to an abnormal degree, with substantial cost and aircraft utilization repercussions, and the latest indications are that these cancellations are still occurring. While most of the trips have been rescheduled, the disruptions have been costly to the carriers, increasing expenses and impairing utilization. And even more troublesome is the unsettled posture of the MAC procurement program, for although most of the shifts in charter contracts are nominally postponements, it appears that the total commercial airlift procurement is likely to be reduced. This would adversely affect the average aircraft utilization for the future, with a concomitant impact on costs.

The Board believes that, taken together, the inflationary cost outlook and depressed aircraft utilization combine to render unreasonable the rate reductions proposed in the Notice. On the other hand, the data are not sufficiently definitive to afford a basis for establishing an entirely new rate. In view of the marked changes which have taken place, in order

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[1] By ER-591, effective Nov. 1, 1969, the Board extended the term of Part 288 with respect to foreign and overseas transportation through Dec. 31, 1969. The Board had previously established minimum rates for Logair and Quicktrans domestic military cargo charters for the year ending June 30, 1970, in ER-584, adopted June 25, 1969.

[2] Comments were filed by Airlift, Alaska, American, American Flyers, Braniff, Capitol, Continental, Eastern, Flying Tiger, Northwest, Overseas National, Pan American, Saturn, Seaboard, Trans Caribbean, Trans International, Trans World, United, Universal, World, and DOD, and reply comments were filed by Continental, Flying Tiger, Pan American, Seaboard, Trans World, and DOD. No comments were received from Modern or Southern.

[3] In view of our disposition of this proceeding, the requests for oral argument will be denied and it will be unnecessary to address ourselves herein to most of the contentions involving particular aspects of the rates.

[4] The reductions ranged from 2.2 percent for one-way passenger charters to 14.8 percent for one-way cargo charters on long-range aircraft, while for small turbine aircraft, which account for a very small percentage of the MAC international charters, the range was from no change in Pacific interisland passenger rates to 4.4 percent on one-way cargo charters in other areas.

to establish a new rate it would be necessary to require further carrier submissions, issue a supplemental notice of rule making, and receive further comments from the parties. Thus, the question is raised as to whether to embark upon what would be essentially a new proceeding or to extend existing rates. We have determined to follow the latter course.

In the past, in each instance where the Board instituted its review of MAC rates, the review was necessary because of the steady and substantial trend from year to year of greater efficiencies and lower costs, and there was prima facie reason to believe that the existing rates would not be reasonable for the future. Here, considering the factors outlined above, there has been no prima facie showing by any party that the existing rates will be either excessive or insufficient and, on the basis of the materials submitted, no reason to believe that the existing rates do not fall within the range of reasonableness for minimum rates. Further, it appears that MAC procurement will be in a state of flux and uncertainty for a considerable period of time. Because of this prospect we are doubtful that, even after a new rate review, it would be possible to establish rates on a basis sufficiently precise to justify the considerable expenditure of time necessary to complete the analysis and review: indeed, there is a substantial risk that after completion of the review the future prospects of MAC procurement would remain clouded, and in the meanwhile the parties would have undergone a protracted open rate period and all of the financial uncertainties associated with that special problem. Therefore, in light of all of the foregoing, we conclude that no rate reduction is justified at this time, and that the existing minimum rates contained in Parts 288 and 399 of the regulations should be permitted to remain in effect for an indefinite future period.[5] We shall, of course, maintain continuing surveillance of the MAC operations, and propose such modifications of the rates as circumstances warrant.

In view of the nature of our action, good cause is found for making this rule effective prior to the expiration of the 30-day notice period.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 288 of the economic regulations (14 CFR Part 288), effective August 15, 1969,[6] as follows:

§ 288.7 [Amended]

1. In the table under § 288.7(a)(1) (minimum rates for certain charter service performed with turbine-powered aircraft) insert an asterisk after the round-trip rate of 1.75 cents for passengers, per passenger mile, for regular turbojets, and at the bottom of the table add the following footnote:

* On and after August 15, 1969, the minimum rate for operation of B–707 aircraft in Recreation and Rehabilitation (R&R) service between the Republic of South Vietnam, on the one hand, and Thailand, Malaysia, the Republic of the Philippines, Hong Kong and Taiwan, on the other, shall be 2.50 cents per passenger-mile.

[5] The only changes in the existing regulations, other than extension of their term will be (1) to list aircraft loads of 95 seats for the DC–9–30 and 105 seats for the CV–990 in order to facilitate the employment of those aircraft by MAC and (2) to provide that operations of B–707 aircraft in short-range operations R&R service shall receive compensation at the minimum rate applicable to short-range jet aircraft, thus adopting the position of DOD and Pan American that the higher cost of these aircraft be recognized when so employed. While DOD requested that cost data in the short-range services be excluded in computing the long-range service costs, we find that elimination of the costs of short-range B–707 operations from the computations for long-range jet aircraft would have no measurable impact on the costs of long-range operations. Accordingly, there is no warrant for disturbing the existing rates for these services.

[6] See EDR–168, p. 20.

§ 288.8 [Amended]

2. Replace the table in § 288.8 (minimum aircraft loads) with the following:

Aircraft type	Number of passengers, all-passenger and convertible flights	Tons of cargo	
		All-cargo flights	Convertible flights
B–707–320–B/C	165	36.5	33.7
B–707–300 series	159		
B–707–138B	137		
B–707–100 series (other)	149		
DC–8F–61, –63	219	45	42.5
DC–8F	165	36.5	33.7
DC–8 (50 series)	149		
DC–8 (other)	147		
DC–9–30	95		
B–727	105	18	16.5
CV–990	105		
CL–44	148	29.35	28
L–382		20.7	
L–1649A	95	18	15
L–1049–C/E/G/H	95	18	15
DC–7B/C/CF/F	95	18	15
L–1049A	88	15	12
DC–7	88	15	12
DC–6/A/B/C	83	13	12
DC–4	60	8	6

3. Amend § 288.18(b) to read as follows:

§ 288.18 Expiration.

* * * * *

(b) With respect to foreign and overseas transportation, transportation between the 48 contiguous States, on the one hand, and Hawaii or Alaska, on the other hand, and for transportation within Alaska, including substitute service therefor, this part shall remain in effect indefinitely.

* * * * *

(Secs. 204, 403, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 771, as amended; 49 U.S.C. 1324, 1373, 1386)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 70–49; Filed, Jan. 2, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

OLYMPIC NATIONAL PARK, WASH.

Steelhead Fishing Permit

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), the Act of June 29, 1938 (52 Stat. 1241, 16 U.S.C. 254) and the Act of March 6, 1942 (56 Stat. 136, 16 U.S.C. 256b), 245 DM-I (27 F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Western Regional Order No. (31 F.R. 5577), it is proposed to amend § 7.28 of Title 36 of the Code of Federal Regulations as set forth below. The purpose of this amendment is to cooperate with the State of Washington in gathering fisheries management data for their anadromous fisheries program.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Superintendent, Olympic National Park, Port Angeles, Wash. 98362, within 30 days of publication of this notice in the FEDERAL REGISTER.

Section 7.28 is amended by the addition of paragraph (a)(5) as follows:

§ 7.28 Olympic National Park.

(a) * * *

(5) *License.* A license to fish in park waters is not required; however, any individual fishing for steelhead in park waters shall have in his possession a State of Washington steelhead fishing permit (punch card). Steelhead shall be accounted for on this permit as required by State regulation.

* * * * *

S. T. CARLSON,
Superintendent,
Olympic National Park.

[F.R. Doc. 70-16; Filed, Jan. 2, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 966]

TOMATOES GROWN IN FLORIDA

Limitation of Shipments

Consideration is being given to the issuance of an amendment to the limitation of shipments regulation, hereinafter set forth. This proposal was recommended by the Florida Tomato Committee, established pursuant to Marketing Agreement No. 125 and Marketing Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the Florida production area. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments with respect to this proposal may file the same in quadruplicate with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, to be received not later than January 9, 1970. All written submissions received pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of consideration. During the month of November heavy rains plagued most of the tomato producing sections in Florida. The excussive rains reduced the fruit set and cool weather delayed the maturity of tomatoes scheduled for harvest during December. As a result, tomato shipments during this period were much below normal. However, based on the planted tomato acreage and the current stages of tomato plant development, it is anticipated that supplies of fresh Florida tomatoes will increase substantially and become burdensome during January. In the absence of unforseen adverse weather conditions, it is anticipated that such increased supplies of tomatoes will cause depressed prices resulting in reduced returns to tomato producers.

If these conditions come to pass, it is anticipated that the size requirements for tomatoes may be as restrictive as is indicated in the following proposal:

1. In § 966.307 (34 F.R. 18090, 19746) paragraph (b) would be amended to read as follows:

§ 966.307 Limitation of shipments.

* * * * *

(b) *Minimum size and maturity requirements.* No person shall handle any lot of tomatoes unless they meet the following requirements:

(1) For mature green tomatoes, over $2\frac{9}{32}$ inches in diameter;

(2) For all other tomatoes, over $2\frac{17}{32}$ inches in diameter; and

(3) For all tomatoes, not more than 10 percent, by count, in any lot may be smaller than the specified minimum diameter.

* * * * *

2. The appropriate paragraphs in this section would also be amended to regulate the handling of production area tomatoes within the regulated area in the State of Florida in addition to the handling of tomatoes for shipment outside the area.

3. *Applicability to imports.* Pursuant to section 8e-1 of the Act (7 U.S.C. 608e-1) imports of tomatoes would be subject to the same minimum grade, size, quality, and maturity requirements.

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

Dated: December 31, 1969.

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

[F.R. Doc. 70-109; Filed, Jan. 2, 1970; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69-EA-144]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Fredericksburg, Va., transition area (34 F.R. 4688).

A revision of the VOR instrument approach procedure for Shannon Airport, Fredericksburg, Va., requires alteration of the Fredericksburg, Va., transition area to provide airspace protection for aircraft executing the procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Fredericksburg, Va., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Fredericksburg, Va., transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 38°15'40" N., 77°26'20" W. of Shannon Airport, Fredericksburg, Va., and within 2 miles each side of the Brooke, Va., VORTAC 227° radial, extending from the 6-mile radius area to 1 mile southwest of the VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on December 16, 1969.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-30; Filed, Jan. 2, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SO-149]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Pascagoula, Miss., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Memphis Area Office, Air Traffic Branch, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Pascagoula transition area described in § 71.181 (34 F.R. 4637) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jackson County Airport (lat. 30°22'43" N., long. 88°29'37" W.); within 3 miles each side of the 082° bearing from Pascagoula RBN (lat. 30°22'53" N., long. 88°29'33" W.), extending from the 6.5-mile radius area to 8.5 miles east of the RBN.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria, in conjunction with the cancellation of Special Instrument Approach Procedure NDB (ADF) No. 2 predicated on WPMP Commercial Broadcast Station to the Pascagoula terminal area, requires the following actions:

1. Increase the transition area basic radius circle from 5 to 6.5 miles.

2. Increase the transition area extension predicated on the 082° bearing from the Pascagoula RBN 1 mile in width and 0.5 mile in length.

3. Revoke the transition area extension predicated on the 277° bearing from the Jackson County Airport.

The proposed alteration is required to provide controlled airspace protection for IFR operations in climb from 700 to 1,200 feet above the surface and in descent from 1,500 to 1,000 feet above the surface.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on December 17, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-31; Filed, Jan. 2, 1970; 8:46 a.m.]

Federal Highway Administration

[49 CFR Part 371]

[Docket No. 69-18; Notice 1]

[Motor Vehicle Safety Standard No. 108]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, Buses, Trailers, and Motorcycles

Federal Motor Vehicle Safety Standard No. 108 (33 F.R. 19708, as amended, 34 F.R. 14691) specifies requirements for lamps, reflective devices, and associated equipment for passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles.

The Federal Highway Administrator proposes amending Standard No. 108 to include additional requirements; to amend references to certain SAE Standards updated by the SAE since 1967; and to provide clarification of several existing requirements. The proposed amendments are discussed below:

(a) Currently Standard No. 108 specifies only requirements for lighting equipment on new motor vehicles. Approximately 60 percent of the defects discovered in State motor vehicle inspections involve lighting (headlamps, taillamps, stoplamps, and turn-signal lamps). Many more lamps or components of lighting equipment are replaced in service. The Administrator believes it to be in the interest of motor vehicle safety to specify requirements for replacement lighting equipment. Although the eventual goal is to specify requirements for all lighting equipment for vehicles in use, only limited requirements are proposed in this notice and they are restricted to equipment which may be used to replace the new-vehicle equipment required by this standard, plus all sealed beam headlamps, motor-vehicle lamp bulbs and plastic lenses. (S3.7, S3.8.)

(b) Paragraph S3.1.1.2 currently requires intermediate side marker devices on vehicles which are 30 feet or more in overall length and 80 inches or more in overall width. This amendment would extend this requirement to all vehicles which are 30 feet or more in overall length, regardless of their width. (S3.1.1.3.)

(c) Paragraph S3.1.1.3 and Tables I and III currently reference SAE Standard J594c "Reflex Reflectors," February 1965, which was revised in March 1967 (J594d), to include requirements for improved reflector performance. Under this proposal, J594d would be referenced instead of J594c. (S3.1.1.4 and Tables I and III.)

(d) The use of self-canceling turn signal-operating units has been an industry practice for many years on vehicles less than 80 inches in overall width. This practice enhances traffic safety by minimizing the number of vehicles with turn signals inadvertently operating after completion of a turn. This practice would become a requirement under the proposed amendment. (S3.1.1.5.)

(e) Tables I and III currently permit the use of amber as an optional stoplamp color. Since red is the universally recognized color denoting stopping it is proposed that only the color red be permitted. (S3.1.1.6, Tables I and III.)

(f) Currently, separately mounted stoplamps have a minimum required intensity of 40 cp., unlike stoplamps combined with turn-signal lamps which generally have a minimum intensity of 80 cp. We are proposing to raise the minimum required intensity of all stoplamps to 80 cp., in order to provide a uniform intensity for stoplamps and remove some of the ambiguity which exists in a stoplamp-taillamp combination used in conditions of darkness or reduced visibility. (S3.1.1.6.)

(g) The safety of motorcycle operators and riders will be enhanced by requirements which are proposed for turn-signal lamps on all motorcycles, and for minimum photometric output of the

headlamp and taillamp at engine idle speeds. (S3.1.1.11, S3.1.1.12, Table III.)

(h) This notice also proposes performance requirements which would insure that plastic materials used for optical parts such as lenses and reflectors will not deteriorate significantly during aging and weathering. (S3.1.2.)

(i) In some cases words such as "It is recommended that", "recommendation", and "should be", appear in the referenced or subreferenced SAE Standards and Recommended Practices. This may result in differing interpretations of the actual requirements of Standard No. 108. Therefore any such language shall be read as setting forth mandatory requirements or procedures. (S3.2.)

(j) Statements that certain lamps and reflective devices shall be mounted "as far apart as practicable" or "as far forward as practicable" etc., are frequently found in current Tables II and IV. Specified tolerances are proposed. (S3.3.1 (b), Table II and Table IV.)

(k) Some of the referenced and subreferenced SAE standards do not state that lamps and reflective devices shall be visible when mounted on a vehicle. Minimum visibility angles for these equipment items when mounted on the vehicle are proposed. (S3.3.1.1.)

(l) SAE Standard J594d, "Reflex Reflectors," March 1967 does not define the axis of the side marker reflex reflectors. A definition is proposed. (S3.3.1.2.)

(m) Paragraph S3.2.1.2. permits rear reflex reflectors on truck tractors to be mounted on the back of the cab. The minimum mounting height for reflectors specified in Table II is 15 inches. Since a mounting height less than the height of the rear tires on a truck tractor may prevent the reflectors from being seen from the rear, a minimum mounting height of 4 inches above the height of the rear tires is proposed. (S3.3.1.3.)

(n) The notice proposes clarification of the testing requirements for combination turn signal and hazard-warning signal flashers. (S3.4.1(b).)

(o) Paragraph S3.4.1 currently references SAE Recommended Practice J565a, "Semiautomatic Headlight Beam Switching Devices," April 1964. Reference to the new revision, J565b, February 1969, is proposed. (S3.5.1.)

(p) Paragraph S3.4.7 currently exempts all vehicles using variable load flashers from the requirement for providing an indication to the driver that the turn-signal system is energized. This should apply only to those vehicles which are equipped to tow trailers (which require variable load flashers in the turn signal circuit), and it is proposed that the exemption be restricted accordingly. (S3.5.6.)

(q) The license plate lamps and side marker lamps are by current practice activated with the headlamps, and the taillamps, license-plate lamps and side-marker lamps with the parking lamps. Under this proposal, this practice would become a requirement. (S 3.5.7)

(r) Paragraph S3.5 permits normally steady-burning lamps to flash for signaling purposes. It is proposed that this exception be limited to the headlamps and side-marker lamps. (S3.6.)

(s) Tables I and III currently reference SAE Standard J593b, "Backup Lamps," May 1966. Since this standard was revised in February 1968, to include requirements for improved backup lamps performance, SAE Standard J593c should be referenced instead of J593b. (Tables I and III.)

(t) Headlamp mountings should be designed and constructed so as to permit adjustment or aiming during initial installation and periodically thereafter. Accordingly, it is proposed that Tables I and III reference SAE Recommended Practice J566, "Headlamp Mountings," January 1960. (Tables I and III.)

(u) Currently Tables I and III reference a turn-signal operating unit in accordance with SAE Standard J589, "Turn-Signal Operating Units," April 1964, which permits use of Class B units. Since the probability of inoperative turn-signal and stoplamps can be minimized by the increased operating performance requirements of Class A turn-signal operating units over those of Class B (175,000 versus 50,000 operating cycles), the notice proposes that Class A turn signal operating units be specified. (Tables I and III.)

(v) Table II requires that clearance lamps be mounted "as near as practicable to the upper left and right extreme edges of the vehicle." Experience has shown that this may result in such lamps failing to mark the extreme width of the vehicle. Since delineating overall width is the paramount reason for requiring clearance lamps, it is proposed that clearance lamps be mounted to indicate the overall width of the vehicle. (Table II.)

(w) Industry practice has been to mount identification lamps as near as practicable to the top of a vehicle to indicate its extreme height. This practice would be required under this proposed amendment to Standard No. 108. Moreover, the current standard permits a horizontal spacing of "lamp centers * * * not less than 6 nor more than 12 inches apart." This tolerance permits the outboard lamps to be spaced a maximum of 24 inches apart, defeating the "cluster" requirement and making "identification" more difficult. Accordingly, spacing of lamp centers not more than 8 inches apart is proposed. (Table II.)

(x) Tables II and IV specify that the license-plate lamp be located "at rear license plate." Because mud and snow can affect the performance of a lamp illuminating the plate from the bottom, the notice proposes that the license-plate lamp location be "at rear license plate to illuminate the plate from the top or sides." (Tables II and IV.)

(y) Tables II and IV specify a maximum mounting height of 72 inches for tail, stop and parking lamps. It is proposed that this requirement also apply to turn-signal lamps. (Tables II and IV.)

It is proposed that this amendment to Standard No. 108 be effective January 1, 1971.

Interested persons are invited to comment on the above proposals by submitting written data, views, or arguments. It is specifically requested that comments be submitted which pertain to leadtime and costs directly related to compliance with the proposed requirements. These comments should contain supporting statements and data to justify all conclusions and recommendations.

Comments must identify the docket and notice number (69–18, No. 1) and be submitted in 10 copies to Docket Section, Federal Highway Administration, Room 4221, 400 7th Street SW., Washington, D.C. 20591.

All comments received on or before the close of business on April 1, 1970, will be considered by the Administrator and will be available in the Docket Section for examination both before and after the closing date for comments.

In consideration of the foregoing, it is proposed to amend Motor Vehicle Safety Standard No. 108 to read as set forth below.

This notice of proposed rule making is issued under the authority of Sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator (49 CFR Part 1).

Issued on December 19, 1969.

F. C. TURNER,
Federal Highway Administrator.

MOTOR VEHICLE SAFETY STANDARD NO. 108

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, TRAILERS AND MOTORCYCLES

S1. *Purpose and scope.* This standard specifies requirements for lamps, reflective devices, and associated equipment necessary for signaling and for safe operation of motor vehicles during hours of darkness and under other conditions of reduced visibility.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (except pole trailers and trailer converter dollies), and motorcycles, to lamps, reflective devices, and associated equipment for replacement of like equipment on vehicles manufactured to conform to this standard; and to sealed beam headlamp units, lamp bulbs and plastic lenses.

S.3 *Requirements.*

S3.1 *Required motor vehicle equipment.*

S3.1.1 Except as provided in S3.1.1.1 through S3.1.1.13, vehicles shall be equipped as a minimum with lamps, reflective devices, and associated equipment, in the numbers of units and designed to conform to the Society of Automotive Engineers Standards or Recommended Practices referenced in—

(a) Table I for multipurpose passenger vehicles, trucks, trailers, and buses of 80 or more inches overall width; or

(b) Table III for passenger cars; and motorcycles; and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 inches overall width.

S3.1.1.1 Truck tractors need not be equipped with turn-signal lamps mounted on the rear if the turn-signal lamps at or near the front are so constructed (doubled-faced) and so located that they meet the requirements for double-faced turn signals specified in SAE Standard J588d, "Turn-Signal Lamps", June 1966.

S3.1.1.2 Truck tractors need not be equipped with any rear side marker devices, rear-clearance lamps, and rear-identification lamps.

S3.1.1.3 Intermediate side-marker devices are required only on vehicles 30 or more feet overall length.

S3.1.1.4 Reflective material conforming to Federal Specification L–S–300, "Sheeting and Tape, Reflective; Non-exposed Lens, Adhesive Backing," September 7, 1965, may be used for side reflex reflectors: *Provided*, That this material, as used on the vehicle, meets the performance standards in Table I of SAE Standard J594d, "Reflex Reflectors," March 1967.

S3.1.1.5 Except on trucks, truck tractors, and buses of 80 or more inches overall width and on motorcycles, turn-signal operating units shall be self-canceling by steering wheel rotation as well as being capable of cancellation by a manually operated control.

S3.1.1.6 All stoplamps shall be red in color, and shall meet photometric minimum candlepower requirements for Class A red turn-signal lamps specified in SAE Standard J575d, "Test for Motor Vehicle Lighting Devices and Components," August 1967.

S3.1.1.7 Turn-signal lamps for passenger cars shall provide Class A photometric values and Class B effective projected illuminated areas. If multiple-compartment lamps or multiple lamps are used, the effective projected illuminated area of each compartment or lamp shall be not less than that of a Class B lamp; however, Class A photometric requirements may be met by a combination of the compartments or lamps.

S3.1.1.8 Front and rear side marker lamps specified in Table III must conform to SAE Standard J592c, "Clearance, Side Marker, Identification, and Parking Lamps," November 1968, except that the photometric minimum candlepower requirements specified therein may be met for inboard test points at a distance of 15 feet from the vehicle and on a vertical plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side marker lamps.

S3.1.1.9 Boat trailers need not be equipped with front and real clearance lamps located as specified for trailers in Table II, provided (amber to front) and red (to rear) clearance lamps are located on each side at or near the midpoint between front and rear of the trailer and indicate the extreme width of the trailer.

S3.1.1.10 Two or more license-plate lamps and two or more backup lamps may be used to fulfill the requirements specified in Tables I and III for a single license-plate and single backup lamp, respectively.

S3.1.1.11 The maximum candlepower for amber rear motorcycle turn-signal lamps shall be 300.

S3.1.1.12 The minimum photometric output of the taillamp and headlamp on motorcycles at the manufacturer's recommended and published engine idle speeds shall be 2 candlepower and 8 candlepower, respectively, as measured on the II–V axis of the lamps.

S3.1.1.13 Parking lamps may be either amber or white and the minimum and maximum candlepower requirements for such lamps shall be as follows:

Test point (degrees)		Minimum candlepower	Maximum candlepower
10U	10L	0.8	125
	V	.8	125
	10R	.8	125
5U	20L	.4	125
	10L	.8	125
	5L	1.4	125
	V	2.8	125
	5R	1.4	125
	10R	.8	125
	20R	.4	125
H	20L	.4	125
	10L	1.4	125
	5L	3.6	125
	V	4.0	125
	5R	3.6	125
	10R	1.4	125
	20R	.4	125
5D	20L	.4	250
	10L	.8	250
	5L	1.4	250
	V	2.8	250
	5R	.14	250
	10R	.8	250
	20R	.4	250
10D	10L	.8	250
	V	.8	250
	10R	.8	250

S3.1.2 Plastic materials used for optical parts such as lenses and reflectors shall conform to SAE Recommended Practice J576b, "Plastic Materials for Use in Optical Parts, such as Lenses and Reflectors, of Motor Vehicle Lighting Devices," August 1966. All plastic lenses shall conform to Section L "Warpage Test Devices with Plastic Lenses," of SAE Standard J575d, "Test for Motor Vehicle Lighting Devices and Components," August 1967.

S3.1.3 No additional lamp, reflective device, or associated equipment shall be installed if it impairs the effectiveness of the required equipment.

S3.1.4 *School buses.*

S3.1.4.1 School buses shall be equipped with a system of either:

(a) Four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps", July 1964, and four amber signal lamps designed to conform to that standard, except for color and except the candlepower requirement shall be 2½ times that specified; or

(b) Four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps", July 1964.

S3.1.4.2 The red and amber signal-lamp system specified in S3.1.4.1(a) shall be installed in accordance with SAE Standard J887, July 1964, except that:

(a) An amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus; and

(b) The system of red and amber signal lamps shall be wired so that the amber signal lamps are energized only by manual or foot operation, and, if energized, are automatically deenergized and the red signal lamps automatically energized when the bus entrance door is opened.

S3.1.4.3 The red signal-lamp system specified in S3.1.4.1(b) shall be installed in accordance with SAE Standard J887, July 1964.

S3.2 The words "It is recommended that", "recommendations" or "should be" appearing in any SAE Standard or Recommended Practice referenced or subreferenced in this standard shall be read as setting forth mandatory requirements.

S3.3 *Location of required equipment.*

S3.3.1 (a) Except as provided in S3.3.1.1 through S3.3.1.5, lamps, reflective devices, and associated equipment shall be securely mounted on a permanent part of the vehicle in accordance with any requirements of the specified SAE Standards or Recommended Practices referenced in Tables I and III, and in locations specified in—

(1) Table II for multipurpose passenger vehicles, trucks, trailers, and buses of 80 or more inches overall width; or

(2) Table IV for passenger cars; motorcycles; and multipurpose passenger vehicles, trucks, trailers, and buses of less than 80 inches overall width.

(b) When lamps, reflective devices, and associated equipment are required as indicated in Table II or Table IV, to be "within X inches of the extreme edge of the vehicle" or "within X inches of the extreme front of the vehicle", measurements shall be made as follows:

(1) "Within X inches of the extreme edge of the vehicle" means no more than X inches measured from a vertical plane tangent to the extreme edge of the vehicle (exclusive of signal lamps, marker lamps, outside rearview mirrors, flexible fender extensions, and mud flaps, with doors and windows closed and the wheels in the straight-ahead position) and parallel to the longitudinal axis of the vehicle, to the outboard edge of the luminous surface of the lamp or reflector, or where a multiple-compartment lamp or multiple lamps are used, to the outboard edge of the luminous surface of the outermost compartment or lamp.

(2) "Within X inches of the extreme front (rear) edge of the vehicle" means no more than X inches measured from a vertical plane tangent to the extreme front (or rear) edge of the vehicle and perpendicular to the longitudinal axis of the vehicle, to the front (or rear) edge of the luminous surface of the lamp or reflector, or where a multiple-compartment lamp or multiple lamps are used, to the front (or rear) edge of the luminous surface of the forward (or rearward) compartment or lamp.

S3.3.1.1 Lamps and reflectors shall be located so that their visibility shall not

be obstructed by any part of the vehicle throughout the photometric and visibility angles specified in applicable SAE standards or recommended practices for lamps and reflectors.

S3.3.1.2 When testing the photometric minimum candlepower specified in SAE Standard J594d, "Reflex Reflectors" March 1967, the axis of the side reflex reflectors shall be the axis perpendicular to a vertical plane passing through the longitudinal axis of the vehicle.

S3.3.1.3 On truck tractors, the red rear-reflex reflectors may be mounted on the back of the cab, at a minimum height no less than 4 inches above the height of the rear tires.

S3.3.1.4 On trailers, the amber front side-reflex reflectors and amber front side-marker lamps may be located as far forward as practicable exclusive of the trailer tongue.

S3.3.1.5 When the rear identification lamps are mounted at the extreme height of the vehicle, rear clearance lamps need not be mounted as high as practicable.

S3.4 *Limitations on equipment combinations.*

S3.4.1 Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that—

(a) No clearance lamp may be combined optically with any taillamp or identification lamp;

(b) Combination turn-signal and hazard-warning signal flashers shall meet the requirements of SAE Standards J590b, "Automotive Turn Signal Flasher," October 1965, and J945, "Vehicular Hazard Warning Signal Flasher," February 1966, when tested consecutively and respectively in accordance with the SAE Standards.

S3.5 *Special wiring requirements.*

S3.5.1 A means of switching between lower and upper headlamp beams shall be provided to conform to SAE Recommended Practice J564a, "Headlamp Beam Switching." April 1964, or to SAE Recommended Practice J565b, "Semi-Automatic Headlamp Beam Switching Devices," February 1969.

S3.5.2 A means for indicating to the driver when the upper beams of headlamps are on shall be provided to conform to SAE Recommended Practice J564a, April 1964, except that the signal color need not be red.

S3.5.3 As a minimum the taillamps shall be illuminated when the headlamps are illuminated, except when the headlamps are being flashed.

S3.5.4 Stoplamps shall be actuated upon application of any services or emergency brakes.

S3.5.5 The vehicular hazard warning signal operating unit shall operate independently of the ignition or equivalent switch, and when energized, shall cause to flash simultaneously sufficient turn-signal lamps to meet the turn-signal lamp photometric requirements of S3.1.1.7 for passenger cars, or to meet Class A photometric values as specified in SAE Standard J588d, "Turn Signal Lamps," June 1966, for all other vehicles.

S3.5.6 All vehicles having turn-signal operating units shall have an illuminated pilot indicator. Except on truck tractors and vehicles equipped to tow trailers, failure of one or more turn-signal lamps to operate shall be indicated in accordance with SAE Standard J588d, "Turn Signal Lamps," June 1966.

S3.5.7 On passenger cars; motorcycles; and multipurpose passenger vehicles, trucks, and buses of less than 80 inches overall width, parking lamps, license-plate lamps and side-marker lamps shall be illuminated when the headlamps are illuminated, except when the headlamps are being flashed; and the taillamps, license-plate lamps, and side-marker lamps shall be illuminated when the parking lamps are illuminated.

S3.6 Each lamp shall, when energized, be steady-burning except turn-signal lamps and hazard-warning signal lamps, which shall flash. Steady-burning headlamps and side-marker lamps may be capable of being flashed for signaling purposes.

S3.7 *Replacement equipment on motor vehicles covered by standard.* Each lamp, reflective device, or item of associated equipment, manufactured to replace any lamp, reflective devices, or item of associated equipment on any vehicle manufactured to conform with this standard, shall conform with any applicable SAE Standard or Recommended Practice specified in Table I, Table III, S3.1 or S3.5.

S3.8 *Replacement equipment on all motor vehicles.*

S3.8.1 Each lamp bulb manufactured to replace any lamp bulb in any headlamp, taillamp, stoplamp, license-plate lamp, parking lamp, side-marker lamp, backup lamp, turn-signal lamp, clearance lamp, or identification lamp, shall conform to SAE Recommended Practice J603c, "Incandescent Lamp Impact Test", June 1966, except the minimum average percent operative at 30 minutes shall be 95, and at 360 minutes, 90.

S.3.8.2 Each sealed beam headlamp unit shall conform to SAE Standard J579a, "Sealed Beam Headlamp Units for Motor Vehicles", August 1965.

S3.8.3 Each plastic lens manufactured to replace any plastic lens in any headlamp, taillamp, stoplamp, license-plate lamp, parking lamp, side-marker lamp, backup lamp, turn-signal lamp, clearance lamp, or identification lamp, shall meet the requirements of S3.1.2 for plastic materials and lenses.

S4. *Applicable subreferenced SAE standards and recommended practices.* SAE Standards and Recommended Practices subreferenced by the SAE Standards and Recommended Practices listed in Tables I and III are those subreferenced standards and practices published in the 1967 edition of the SAE Handbook, except:

(a) Subreferenced SAE Standard J573 shall be SAE Standard J573d, "Lamp Bulbs and Sealed Units," December 1968;

(b) Subreferenced SAE Standard J575 shall be SAE Standard J575d, "Tests of Motor Vehicle Lighting Devices and Components," August 1967, except that maximum photometric candlepower values for one-and two-compartment stoplamps shall be 300 candlepower;

(c) Subreferenced SAE Standard J823 shall be SAE Standard J823b, "Flasher Test Equipment," April 1968.

TABLE I.—EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF 80 OR MORE INCHES OVERALL WIDTH

Item	Number and color in accordance with Society of Automotive Engineers Standard J578a, April 1965 required on—			In accordance with SAE standard or recommended practice
	Multipurpose passenger vehicles, trucks (other than truck tractors), and buses	Trailers	Truck tractors	
Headlamps	2 white, 7-inch, Type 2 headlamp units; or 2 white, 5¾-inch Type 1 headlamp units and 2 white 5¾-inch, Type 2 headlamp units.		Same as trucks and buses.	J580a, June 1966; J579a, August 1965; and J566, January 1960.
Taillamps	2 red	2 red	2 red	J585c; June 1966.
Stoplamps	2 red [1]	2 red [1]	2 red [1]	J586b, June 1966.
License plate lamp	1 white [2]	1 white [2]	1 white [2]	J587d, March 1969.
Reflex reflectors	4 red; 2 amber	4 red; 2 amber	2 red; 2 amber	J594d, March 1967.
Side-marker lamps	2 red; 2 amber	2 red; 2 amber	2 amber	J592c, November 1968.
Backup lamp	1 white [2]		1 white [2]	J593c, February 1968.
Turn signal lamps	2 Class A red or amber; 2 Class A amber.[3]	2 Class A red or amber.	2 Class A red or amber; 2 Class A amber.[3]	J588d, June 1966.
Turn-signal operating unit.	1 Class A		1 Class A	J589, April 1964.
Turn-signal flasher	1		1	J590b, October 1965.
Vehicular hazard warning signal operating unit.	1		1	J910, January 1966.
Vehicular hazard warning signal flasher.	1		1	J945, February 1966.
Identification lamps	3 amber and 3 red	3 red	3 amber	J592c, November 1968.
Clearance lamps	2 amber and 2 red	2 amber and 2 red	2 amber	J592c, November 1968.
Intermediate side-marker lamps.	2 amber [4]	2 amber [4]		J592c, November 1968.
Intermediate side reflex reflectors.	2 amber [4]	2 amber [4]		J594d, March 1967.

[1] See S3.1.1.6.
[2] See S3.1.1.10.
[3] See S3.5.6.
[4] See S3.1.1.3.

TABLE II.—EQUIPMENT LOCATION

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF 80 OR MORE INCHES OVERALL WIDTH

Item	Location on: Multipurpose passenger vehicles, trucks, and truck tractors	Location on: Trailers	Location on: Buses	Height above road surface measured from center of item on vehicle at curb weight
Headlamps	Type 1 headlamps at the same height, 1 on each side of the vertical centerline; Type 2 headlamps at the same height, 1 on each side of the vertical centerline as far apart as practicable.	----------	Type 1 headlamps at same height, 1 on each side of vertical centerline; Type 2 headlamps at same height, 1 on each side of vertical centerline, within 18 inches of extreme edge of vehicle.	Not less than 24 inches nor more than 54 inches.
Tail lamps	On the rear—1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear—1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear—1 on each side of the vertical centerline, at the same level, within 6 inches of extreme edge of vehicle.	Not less than 15 inches nor more than 72 inches.
Stop lamps	On the rear—1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear—1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear—1 on each side of the vertical centerline, at the same level, within 24 inches of extreme edge of vehicle.	Not less than 15 inches nor more than 72 inches.
License plate lamp.	At rear license plate to illuminate the plate from the top or sides.	At rear license plate to illuminate the plate from the top or sides.	At rear license plate to illuminate the plate from the top or sides.	
Turn-signal lamps.	At or near the front—1 amber on each side of the vertical centerline, at the same level, and as far apart as practicable. On the rear—1 red or amber on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear—1 red or amber on each side of vertical centerline, at the same level, and as far apart as practicable. ----------	At or near the front—1 amber on each side of the vertical centerline, at the same level, within 18 inches of the extreme edge of the vehicle. On the rear—1 red or amber on each side of the vertical centerline, at the same level, within 18 inches of the extreme edge of the vehicle.	Not less than 15 inches, nor more than 72 inches.
Identification lamps.	On the front and rear—3 lamps, amber on front, red on rear, grouped in a horizontal row with lamp centers spaced not less than 6 inches nor more than 8 inches apart, and mounted as close as practicable to the vertical centerline and the top of the vehicle.	On the rear—3 red lamps grouped in a horizontal row with lamp centers spaced not less than 6 inches nor more than 8 inches apart, and mounted as close as practicable to the vertical centerline and the top of the trailer.	On the front and rear—3 lamps amber on front, red on rear, grouped in a horizontal row with lamp centers spaced not less than 6 inches nor more than 8 inches apart, and mounted as close as practicable to the vertical centerline and the top of the vehicle.	On front only: No part of the lamps or mounting may extend below the top of the vehicle windshield.
Clearance lamps.	On the front and rear—2 amber lamps on front, 2 red lamps on rear, to indicate the overall width of the vehicle and as near the top thereof as practicable.[1]	On the front and rear—2 amber lamps on front, 2 red lamps on rear, to indicate the overall width of the vehicle and as near the top thereof as practicable.[1]	On the front and rear—2 amber on front, 2 red on rear, 1 each on each side of vertical centerline, within 6 inches of extreme edge of vehicle and as near the top thereof as practicable.	

TABLE II.—EQUIPMENT LOCATION—Continued

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF 80 OR MORE INCHES OVERALL WIDTH—CON.

Item	Location on: Multipurpose passenger vehicles, trucks, and truck tractors	Location on: Trailers	Location on: Buses	Height above road surface measured from center of item on vehicle at curb weight
Intermediate side-marker lamps.	On each side—1 amber within 12 inches of the front to rear midpoint of the vehicle.	On each side—1 amber within 12 inches of the front to rear midpoint of the vehicle.	On each side—1 amber within 12 inches of the front to rear midpoint of the vehicle.	Not less than 15 inches.
Intermediate side reflex reflectors.	On each side—1 amber within 12 inches of the front to rear midpoint of the vehicle.	On each side—1 amber within 12 inches of the front to rear midpoint of the vehicle.	On each side—1 amber within 12 inches of the front to rear midpoint of the vehicle.	Not less than 15 inches nor more than 60 inches.
Backup lamp	On the rear		On the rear	
Reflex reflectors.	On the rear—1 red on each side of the vertical centerline, as far apart as practicable and at the same level.[2] On each side—1 red as far to the rear as practicable and 1 amber as far to the front as practicable.[3]	On the rear—1 red on each side of the vertical centerline, as far apart as practicable and at the same level. On each side—1 red as far to the rear as practicable and 1 amber as far to the front as practicable.	On the rear—1 red on each side of the vertical centerline, at the same level, within 8 inches of the extreme edge of the vehicle. On each side—1 red within 12 inches of the extreme rear and 1 amber within 12 inches of the extreme front of the vehicle.	Not less than 15 inches, nor more than 60 inches.
Side-marker lamps.	On each side—1 red as far to the rear as practicable and 1 amber as far to the front as practicable.	On each side—1 red as far to the rear as practicable and 1 amber as far to the front as practicable.	On each side—1 red within 12 inches of the extreme rear and 1 amber within 12 inches of the extreme front of the vehicle.	Not less than 15 inches.

[1] See S3.3.1.5.
[2] See S3.3.1.3.
[3] See S3.1.1.2.

TABLE III.—EQUIPMENT

PASSENGER CARS; MOTORCYCLES; AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Number and color in accordance with Society of Automotive Engineers Standard J578a, April 1965 required on: Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	In accordance with SAE standard or recommended practice
Headlamps	2 white, 7-inch, Type 2 headlamp units; *or* 2 white, 5¾-inch, Type 1 headlamp units and 2 white, 5¾-inch, Type 2 headlamp units.	----------	----------	J580a, June 1966; J579a, August 1965; and J566, January 1960.
	----------	----------	1 white (5)	J584, April 1964; and J566, January 1960.
Taillamps	2 red	2 red	1 red (5)	J585c, June 1966.
Stoplamps	2 red (1)	2 red (1)	1 red (1)	J586b, June 1966.
License plate lamp	1 white (4)	1 white (4)	1 white (4)	J587d, March 1969.

See footnotes at end of table.

TABLE III—EQUIPMENT—Continued

PASSENGER CARS; MOTORCYCLES; AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF LESS THAN 80 INCHES OVERALL WIDTH—Continued

Item	Number and color in accordance with Society of Automotive Engineers Standard J578a, April 1965 required on			In accordance with SAE standard or recommended practice
	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	
Parking lamps	2 amber			J592c, November 1968.
Reflex reflectors	4 red, 2 amber (3)	4 red, 2 amber	3 red, 2 amber	J594d, March 1967.
Intermediate side-reflex reflectors.	2 amber (2)	2 amber (2)		J594d, March 1967.
Intermediate side-marker lamps.	2 amber (2)	2 amber (2)		J592c, November 1968.
Side-marker lamps	2 red 2 amber [8]	2 red 2 amber		J592c, November 1968.
Back-up lamps	1 white [9]			J593c, February 1968.
Turn-signal lamps	2 Class A red or amber; 2 Class A amber.[8 10]	2 Class A red or amber.	2 Class B amber and 2 Class B red or amber.[10 11]	J588d, June 1966.
Turn-signal operating unit.	1 Class A [7]		1 Class B	J589, April 1964.
Turn-signal flasher	1		1	J590b, October 1965.
Vehicular hazard warning signal operating unit.	1			J910, January 1966.
Vehicular hazard warning signal flasher.	1			J945, February 1966.

[1] See S3.1.1.6.
[2] See S3.1.1.3.
[3] See S3.1.1.2.
[4] See S3.1.1.10.
[5] See S3.1.1.12.
[6] See S3.1.1.7.
[7] See S3.1.1.5.
[8] See S3.1.1.2.
[9] See S3.1.1.10.
[10] See S3.5.6.
[11] See S3.1.1.11.

TABLE IV.—EQUIPMENT LOCATION

PASSENGER CARS; MOTORCYCLES; AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Location on		Height above road surface measured from center of item on vehicle at curb weight
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses	Motorcycles	
Col. 1	Col. 2	Col. 3	Col. 4
Headlamps	Type 1 headlamps at the same height, 1 on each side of the vertical centerline; Type 2 headlamps at the same height, 1 on each side of the vertical centerline, within 6 inches of the extreme edge of vehicle.	On the vertical centerline, except that if two are used, they may be symmetrically disposed about the vertical centerline.	Not less than 24 inches nor more than 54 inches.
Taillamps	On the rear—1 on each side of the vertical centerline, at the same level, within 6 inches of the extreme edge of vehicle.	On the rear—on the vertical centerline, except that if two are used, they may be symmetrically disposed about the vertical centerline.	Not less than 15 inches nor more than 72 inches.
Stoplamps	On the rear—1 on each side of the vertical centerline, at the same level, within 18 inches of the extreme edge of vehicle.	On the rear—on the vertical centerline except that if two are used, they may be symmetrically disposed about the vertical centerline.	Not less than 15 inches, nor more than 72 inches.
License plate lamp.	At rear license plate to illuminate the plate from the top or sides.	At rear license plate	
Parking lamps	On the front—1 on each side of the vertical centerline, at the same level, within 8 inches of the extreme edge of vehicle.		Not less than 15 inches, nor more than 72 inches.
Reflex reflectors	On the rear—1 red on each side of the vertical centerline, at the same level, within 8 inches of the extreme edge of vehicle. On each side—1 red within 12 inches of the extreme rear and 1 amber within 12 inches of the extreme front of vehicle.	On the rear—1 red on the vertical centerline, except that if two reflectors are used on the rear, they may be symmetrically disposed about the centerline. On each side—1 red as far to the rear as practicable and 1 amber as far to the front as practicable.	Not less than 15 inches nor more than 60 inches.
Backup lamp	On the rear		

See footnotes at end of table.

TABLE IV.—EQUIPMENT LOCATION—Continued
PASSENGER CARS; MOTORCYCLES; AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES OF LESS THAN 80 INCHES OVERALL WIDTH—continued

Item	Location on		Height above road surface measured from center of item on vehicle at curb weight
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses	Motorcycles	
Col. 1	Col. 2	Col. 3	Col. 4
Turn signal lamps[1].	At or near the front—1 amber on each side of the vertical centerline, at the same level, within 12 inches of the extreme edge of vehicle. On the rear—1 red or amber on each side of the vertical centerline, at the same level, within 12 inches of the extreme edge of vehicle.	At or near the front—1 amber on each side of the vertical centerline, at the same level, and having a minimum horizontal separation distance (centerline to centerline of lamps) of 16 inches. Minimum edge to edge separation distance between lamp and headlamp to be 4 inches. At or near the rear—1 red or amber on each side of the vertical centerline, at the same level and having a minimum horizontal separation distance (centerline to centerline of lamps) of 12 inches. Minimum edge to edge separation distance between lamp and tail or stop lamp to be 4 inches.	Not less than 15 inches, nor more than 72 inches.
Side-marker lamps.	On each side—1 red within 12 inches of the extreme rear and 1 amber within 12 inches of the extreme front of vehicle.	----------	Not less than 15 inches.
Intermediate side-marker lamps.	On each side—1 amber within 12 inches of the front to rear midpoint of the vehicle.	----------	Not less than 15 inches.
Intermediate reflex reflectors.	On side—1 amber within 12 inches of the front to rear midpoint of the vehicle.	----------	Not less than 15 inches, nor more than 60 inches.

[1] Front turn signal lamps not required for trailers.

[F.R. Doc. 70–4; Filed, Jan. 2, 1970; 8:45 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

CARE LABELING OF TEXTILE PRODUCTS

Notice of Additional Hearing for Consideration of Proposed Trade Regulation Rules

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., has scheduled an additional public hearing for the consideration of the proposed Trade Regulation Rules relating to Care Labeling of Textile Products. The original public hearing will take place as scheduled, on January 13 and 14, 1970, as announced in a public notice published in the FEDERAL REGISTER on November 4, 1969.

The second hearing will take place on March 17 and 18, 1970, at 10 a.m., e.s.t., in Room 532 of the Federal Trade Commission Building in Washington, D.C. The second hearing is being scheduled at the request of several textile industry associations and corporations which have indicated a desire to appear at the public hearing but which will not be able to collect and prepare, by January 13, 1970, all the information they wish to present for the Commission's consideration.

Any person desiring to orally present his views at the second hearing should so inform the Chief, Division of Trade Regulation Rules, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580, not later than March 10, 1970, and state the estimated time required for his oral presentation. Reasonable limitations upon the length of time allotted to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Chief, Division of Trade Regulation Rules, on or before March 10, 1970. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit 20 copies.

Issued: January 2, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70–7; Filed, Jan. 2, 1970; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ROBERT T. CONROY

Notice of Granting of Relief

Notice is hereby given that Mr. Robert T. Conroy, 1604 Tulip Tree Road, Fort Wayne, Ind. 46805, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of convictions on March 2, 1942, and January 2, 1953, by the Allen County Circuit Court, Allen County, Ind., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Robert T. Conroy, because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Robert T. Conroy to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Robert T. Conroy's application and:

(1) I have found that the convictions were made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Robert T. Conroy be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 24th day of December 1969.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[FR. Doc. 70-71; Filed, Jan. 2, 1970; 8:48 a.m.]

HAROLD F. GANZKE

Notice of Granting of Relief

Notice is hereby given that Harold F. Ganzke, 8205 West Sunbury Court, Milwaukee, Wis., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possesion of firearms incurred by reason of his conviction on May 9, 1941, in the Municipal Court for Milwaukee County, Wis., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Harold F. Ganzke because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Ganzke to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Harold F. Ganzke's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Harold F. Ganzke be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 24th day of December 1969

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-72; Filed, Jan. 2, 1970; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Geological Survey

[Colorado 129]

COLORADO

Coal Land Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, COLO.

COAL LANDS

T. 5 N., R. 97 W.,
Sec. 16, E½NE¼.
T. 4 N., R. 98 W.,
Sec. 16, lot 1;
Sec. 28, N½SE¼.
T. 6 N., R. 98 W.,
Sec. 27, SE¼SW¼, SW¼SE¼;
Sec. 34, W½NE¼, E½NW¼, S½.

RECLASSIFIED COAL LANDS FROM NONCOAL LANDS

Prior classification of the following lands as noncoal is hereby revoked and the lands are reclassified as coal lands:

T. 3 N., R. 96 W.,
Sec. 6, lot 14.
T. 3 N., R. 97 W.,
Sec. 1, lot 8, SW¼NE¼, S½NW¼, S½;
Secs. 2 to 4, inclusive;
Sec. 5, lot 5, SE¼NE¼, NE¼SE¼, S½SE¼.
T. 4 N., R. 97 W.,
Sec. 8, lot 5, E½SE¼;
Secs. 9 to 11, inclusive;
Sec. 12, SW¼SW¼;
Sec. 13, W½W½;
Secs. 14 and 15;
Sec. 16, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 21, NE¼, E½NW¼, SE¼;
Secs. 22 and 23;
Sec. 24, W½W½;
Sec. 25, W½NW¼, NW¼SW¼;
Secs. 26 and 27;
Sec. 28, E½;
Sec. 33, NE¼, E½NW¼, NE¼SW¼, S½ SW¼, SE¼;
Sec. 34;
Sec. 35, W½NE¼, W½, SE¼.
T. 5 N., R. 97 W.,
Sec. 14, lots 19 to 24, inclusive;
Sec. 21, SE¼SE¼;
Sec. 22, NE¼, SE¼NW¼, S½;
Sec. 23, NW¼NE¼, NE¼NW¼, W½W½;
Sec. 26, W½, W½SE¼;
Sec. 27;

Sec. 28, NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 33, N½, N½SW¼, SE¼SW¼, SE¼;
Secs. 34 and 35.
T. 5 N., R. 98 W.,
Sec. 3, lots 5 to 8, inclusive, S½N½.

NONCOAL LANDS

T. 5 N., R. 97 W.,
Sec. 9, SE¼SW¼, W½SE¼;
Sec. 16, NW¼, NW¼SW¼;
Sec. 17, SE¼NE¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 19, lots 5 and 6, N½NE¼, SW¼NE¼, E½NW¼.
T. 3 N., R. 98 W.,
Sec. 5, lot 6, SW¼NE¼, N½SW¼, SW¼SW¼;
Sec. 7, N½NE¼.
T. 4 N., R. 98 W.,
Sec. 7;
Sec. 8, lots 6, 7, and 8, SW¼;
Sec. 17, W½;
Sec. 18;
Sec. 19, lots 5, 6, and 7, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 20, SW¼NE¼, W½;
Sec. 29, N½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼;
Sec. 30, N½NE¼;
Sec. 32, W½NE¼, SE¼NE¼, SE¼.
T. 5 N., R. 98 W.,
Sec. 20, NE¼SE¼, S½SE¼;
Sec. 21, lots 2, and 4 to 11, inclusive, SW¼SW¼, SE¼SE¼;
Sec. 24, lots 1 and 2, NE¼, NE¼NW¼;
Sec. 28, SW¼NE¼, W½;
Sec. 29, E½, E½W½;
Sec. 31, lot 8, SE¼SW¼, S½SE¼;
Sec. 32, NE¼, S½;
Sec. 33, W½.

The area described aggregates 23,628 acres, more or less, of which about 760 acres are classified as coal lands, about 16,046 acres are reclassified coal lands that were formerly classified noncoal lands, and about 6,822 acres are classified as noncoal lands.

WILLIAM A. RADLINSKI,
Acting Director.

DECEMBER 23, 1969.

[F.R. Doc. 70-15; Filed, Jan. 2, 1970; 8:45 a.m.]

National Park Service

ISLE ROYALE NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Isle Royale National Park, proposes to issue a concession permit to Clarence J. Grognet, doing business as Isle Royale Seaplane Service, authorizing it to provide air transportation of passengers and freight for the public, and to use certain Government-owned docks and fueling facilities located in Isle Royale National Park, for a period of 5 years from January 1, 1970, through December 31, 1974.

The foregoing concessioner has performed its obligations under an existing permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the issuance of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice.

Interested parties should contact the Superintendent, Isle Royale National Park, 87 North Ripley Street, Houghton, Mich. 49931, for information as to the requirements of the proposed permit.

HUGH P. BEATTIE,
Superintendent.

DECEMBER 5, 1969.

[F.R. Doc. 70-18; Filed, Jan. 2, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

MARKETING QUOTA REVIEW COMMITTEE PANELS

Notice of Revision of Certain Areas of Venue

Pursuant to subsection (a)(1) of 5 U.S.C. 552 which requires that the field organization be published in the FEDERAL REGISTER and § 711.12 of the Marketing Quota Review Regulations (26 F.R. 10204, as amended) which provides for establishment of areas of venue for marketing quota review committee panels, notice is hereby given of the revision of certain areas of venue established by the following ASC State Committees as previously published in the FEDERAL REGISTER of December 31, 1965 (30 F.R. 17174).

MISSOURI

Counties of:

Area I—Andrew, Atchison, Buchanan, Clay, Clinton, Daviess, De Kalb, Gentry, Harrison, Holt, Nodaway, Platte, Worth.

Area II—Caldwell, Carroll, Chariton, Grundy, Jackson, Lafayette, Linn, Livingston, Mercer, Putnam, Ray, Saline, Sullivan.

Area III—Adair, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Randolph, Schuyler, Scotland, Shelby.

Area IV—Audrain, Boone, Callaway, Howard, Lincoln, Montgomery, Pike, St. Charles, St. Louis, Warren.

Area V—Bates, Benton, Cass, Cole, Cooper, Henry, Johnson, Miller, Moniteau, Morgan, Pettis.

Area VI—Barton, Camden, Cedar, Dade, Dallas, Hickory, Laclede, Polk, Pulaski, St. Clair, Vernon, Webster, Wright.

Area VII—Crawford, Dent, Franklin, Gasconade, Jefferson, Maries, Osage, Phelps, St. Francois, Ste. Genevieve, Texas, Washington.

Area VIII—Cape Girardeau, Dunklin, Mississippi, New Madrid, Perry, Pemiscot, Scott, Stoddard.

Area IX—Bollinger, Butler, Carter, Howell, Iron, Madison, Oregon, Reynolds, Ripley, Shannon, Wayne.

MISSOURI—Continued

Area X—Barry, Christian, Douglas, Greene, Jasper, Lawrence, McDonald, Newton, Ozark, Stone, Taney.

OHIO

Counties of:

Area I—Allen, Auglaize, Defiance, Hancock, Hardin, Logan, Mercer, Paulding, Putnam, Shelby, Van Wert.

Area II—Crawford, Deleware, Fayette, Franklin, Licking, Madison, Marion, Morrow, Pickaway, Union, Wyandot.

Area III—Butler, Champaign, Clark, Clinton, Darke, Greene, Hamilton, Miami, Montgomery, Preble, Warren.

Area IV—Adams, Brown, Clermont, Gallia, Highland, Jackson, Lawrence, Pike, Ross, Scioto.

Area V—Athens, Fairfield, Guernsey, Kocking, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Vinton, Washington.

TEXAS

Counties of:

Area I—Archer, Armstrong, Baylor, Callahan, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Deaf Smith, Dickens, Donley, Eastland, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hood, Hutchinson, Jack, Kent, King, Knox, Lipscomb, Montague, Moore, Motley, Ochiltree, Oldham, Palo Pinto, Parker, Potter, Randall, Roberts, Shackelford, Sherman, Somervell, Stephens, Stonewall, Throckmorton, Wheeler, Wichita, Wilbarger, Wise, Young.

Area II—Andrews, Bailey, Borden, Brewster, Briscoe, Castro, Cochran, Coke, Crane, Crosby, Culberson, Dawson, Ector, El Paso, Fisher, Floyd, Gaines, Garza, Glasscock, Hale, Hockley, Howard, Hudspeth, Irion, Jeff Davis, Jones, Lamb, Loving, Lubbock, Lynn, Martin, Midland, Mitchell, Nolan, Parmer, Pecos, Presidio, Reagan, Reeves, Runnels, Scurry, Sterling, Swisher, Taylor, Terrell, Terry, Upton, Ward, Winkler, Yoakum.

Area III—Anderson, Angelina, Bell, Bosque, Bowie, Camp, Cass, Cherokee, Collin, Cooke, Dallas, Delta, Denton, Ellis, Falls, Fannin, Franklin, Freestone, Grayson, Gregg Harrison, Henderson, Hill, Hopkins, Houston, Hunt, Johnson, Kaufman, Lamar, Limestone, McLennan, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Tarrant, Titus, Upshur, Van Zandt, Williamson, Wood.

Area IV—Austin, Bastrop, Bee, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Jackson, Jasper, Jefferson, Karnes, Lavaca, Lee, Leon, Liberty, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Refugio, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Wilson.

Area V—Aransas, Atascosa, Bandera, Bexar, Blanco, Brooks, Brown, Burnet, Cameron, Coleman, Comanche, Concho, Coryell, Crockett, Dimmit, Duval, Edwards, Erath, Frio, Gillespie, Hamilton, Hidalgo, Jim Hogg, Jim Wells, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, Lampasas, La Salle, Live Oak, Llano, McCulloch, McMullen, Mason, Maverick, Medina, Menard, Mills, Nueces, Real, San Patricio, San Saba, Schleicher, Starr, Sutton, Tom Green, Uvalde, Val Verde, Webb, Willacy, Zapata, Zavala.

(Secs. 1, 363, 81 Stat. 4, 52 Stat. 63, as amended; 5 U.S.C. 552, 7 U.S.C. 1363)

Effective date: January 1, 1970.

Signed at Washington, D.C., on December 24, 1969.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-76; Filed, Jan. 2, 1970; 8:48 a.m.]

RICE

Notice of Marketing Quota Referendum for 1970 Crop

Marketing quotas for the crop of rice to be produced in 1970 have been duly proclaimed pursuant to provisions of the Agricultural Adjustment Act of 1938, as amended. Said act requires a referendum to be conducted within 30 days after the date of the issuance of said proclamation of farmers who were engaged in the production of rice in 1969 to determine whether such farmers are in favor of or opposed to such quotas. Prior to establishing the date for the referendum on the 1970 crop rice, public notice (34 F.R. 15485) was given in accordance with 5 U.S.C. 553. Data, views, and recommendations were submitted pursuant to such notice. They have been considered to the extent permitted by law. It is hereby determined that the rice marketing quota referendum under said act for the 1970 crop of rice shall be held during the period January 19 to 23, 1970, each inclusive by mail ballot in accordance with Part 717 of this chapter (33 F.R. 18345).

Signed at Washington, D.C., on: December 30, 1969.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 69-15532; Filed, Dec. 31, 1969; 12:45 p.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

FIDELITY BANK

Notice of Approval of Applicant as Trustee

Notice is hereby given that the Fidelity Bank, a corporation organized and existing under the laws of the State of Pennsylvania, with offices at 135 South Broad Street, Philadelphia, Pa., has been approved as a trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: December 30, 1969.

R. G. KRINER,
Acting Chief,
Office of Ship Operations.

[F.R. Doc. 70-84; Filed, Jan. 2, 1970; 8:49 a.m.]

Office of the Secretary

DEPARTMENT ORDERS AND ADMINISTRATIVE ORDERS

Conversion to Department Organization Orders and/or Department Administrative Orders and Renumbering of Orders

Certain Orders of the Commerce Department, which have been published in the FEDERAL REGISTER, have been retitled Department Organization Orders or Department Administrative Orders, and renumbered. The subject directives are listed as follows:

Former number department order (DO)	F.R. citation and date	New number department organization order (DOO)
DO 83	34 F.R. 13284—8-15-69	DOO 1-1.
DO 27	34 F.R. 6707—4-19-69	DOO 5-1.
DO 177	34 F.R. 12840—8-7-69	DOO 10-1.
DO 186	28 F.R. 3182—4-2-63	DOO 10-2.
DO 181	34 F.R. 7549—5-9-69	DOO 10-3.
DO 5-A	33 F.R. 9310—6-25-68	DOO 10-4.
DO 134	34 F.R. 12457—7-30-69	DOO 10-5.
DO 104	28 F.R. 6837—7-3-63	DOO 10-6.
DO 187	31 F.R. 6749—5-5-66	DOO 15-2.
DO 20	34 F.R. 7922—5-20-69	DOO 15-3.
DO 18	33 F.R. 9037—6-19-68	DOO 15-4.
DO 17	33 F.R. 9311—6-25-68	DOO 15-5.
DO 134-1	33 F.R. 815—1-23-68	DOO 20-1.
DO 134-2	32 F.R. 13679—9-29-67 and 33 F.R. 9840—7-9-68	DOO 20-2.
DO 134-3	34 F.R. 12458—7-30-69	DOO 20-3.
DO 134-4	32 F.R. 10382—7-14-67	DOO 20-4.
DO 134-10	34 F.R. 12459—7 30-69	DOO 20-5.
DO 134-5	32 F.R. 10383—7-14-67	DOO 20-6.
DO 134-8	32 F.R. 10385—7-14-67	DOO 20-7.
DO 134-6	32 F.R. 10384—7-14-67	DOO 20-8.
DO 134-7	34 F.R. 18189—11-13-69	DOO 20-9.
DO 134-9	32 F.R. 10386—7-14-67	DOO 20-10.
DO 106	32 F.R. 10825—7-22-67	DOO 20-11.
DO 134-11	34 F.R. 12459—7-30-69	DOO 20-12.
DO 172-A	26 F.R. 6747—7-27-61	DOO 25-1A.
DO 172-B	34 F.R. 17309—10-24-69 and 32 F.R. 11349—8-4-67	DOO 25-1B.
DO 117-A	31 F.R. 8087—6-8-66, 31 F.R. 15331—12-7-66, 32 F.R. 17549—12-7-67, and 34 F.R. 8250—5-28-69.	DOO 25-2A.
DO 117-B	34 F.R. 13487—8-21-69 and 32 F.R. 12864—9-8-67	DOO 25-2B.
DO 184-A	33 F.R. 54—1-3-68	DOO 25-3A.
DO 184-B	34 F.R. 18097—11-8-69	DOO 25-3B.
DO 21	34 F.R. 6707—4-19-69	DOO 25-4.
DO 2-A	34 F.R. 336—1-9-69	DOO 30-1A.
DO 2-B	34 F.R. 12955—8-9-69 and 32 F.R. 13680—9-29-67	DOO 30-1B.
DO 90-A	32 F.R. 15564—10-19-68 and 34 F.R. 222—1-7-69	DOO 30-2A.
DO 90-B	33 F.R. 19255—12-25-68, 34 F.R. 5011—3-25-69, and 34 F.R. 5751—3-27-69.	DOO 30-2B.
DO 89-A	27 F.R. 11469—11-21-62	DOO 30-3A.
DO 89-B	34 F.R. 19556—12-11-69 and 32 F.R. 13830—10-4-67	DOO 30-3B.
DO 7-A	30 F.R. 15042—12-4-65	DOO 30-4.
DO 14	34 F.R. 12842—8-7-69	DOO 30-5.
DO 16	34 F.R. 12841—8-7-69	DOO 30-6.
DO 15-A	32 F.R. 17548—12-7-67	DOO 35-1A.
DO 15-B	32 F.R. 17549—12-7-67 and 32 F.R. 11347—8-4-67	DOO 35-1B.
DO 85-A	34 F.R. 6703—4-19-69	DOO 35-2A.
DO 85-B	33 F.R. 5376—4-4-68, 34 F.R. 1332—1-28-69, and 32 F.R. 11810—8-16-67.	DOO 35-2B.
DO 152-A	29 F.R. 5408—4-22-64, 30 F.R. 15238—12-9-65, 31 F.R. 14571—11-19-66, 32 F.R. 2389—2-3-67, and 32 F.R. 17548—12-7-67.	DOO 40-1A.
DO 152-B	33 F.R. 10158—7-16-68, 32 F.R. 11348—8-4-67, and 33 F.R. 10756—7-27-68.	DOO 40-1B.
DO 182-A	29 F.R. 5412—4-22-64, 33 F.R. 8553—6-11-68, and 33 F.R. 15563—10-19-68.	DOO 40-2A.
DO 182-B	30 F.R. 2041—2-13-65, 31 F.R. 4169—3-9-66, 32 F.R. 12114—8-23-67, 32 F.R. 12128—8-23-67, 32 F.R. 12728—9-2-67, 33 F.R. 8553—6-11-68, and 34 F.R. 5611—3-25-69.	DOO 40-2B.
DO 168-A	29 F.R. 5410—4-22-64	DOO 40-3A.
DO 168-B	29 F.R. 5411—4-22-64, 32 F.R. 11712—8-12-67, and 32 F.R. 11348—8-4-67.	DOO 40-3B
DO 183	28 F.R. 1121—2-5-63	DOO 40-4.
DO 189-A	31 F.R. 4169—3-9-66	DOO 40-5A.
DO 189-B	31 F.R. 4170—3-9-66 and 32 F.R. 11350—8-4-67	DOO 40-5B.
DO 190-A	29 F.R. 5415—4-22-64	DOO 40-6A.
DO 190-B	29 F.R. 5415—4-22-64	DOO 40-6B.
DO 5-B	34 F.R. 6703—4-19-69, 34 F.R. 14775—9-25-69, and 32 F.R. 13340—9-21-67.	DOO 45-1.

Department order (DO)	F.R. citation and date	Department administrative order (DAO)
DO 3	30 F.R. 10062—8-12-65	DAO 203-21.
DO 9	31 F.R. 8837—6-24-66	DAO 203-22.
DO 46	34 F.R. 335—1-9-69	DAO 208-2.
DO 64	32 F.R. 9734—7-4-67	DAO 205-12.
DO 70	32 F.R. 3769—3-7-67	DAO 203-24.
DO 77	33 F.R. 9765—7-6-68 and 32 F.R. 15222—11-2-67	DAO 202-735.
DO 125	34 F.R. 6746—4-22-69	DAO 201-4.
DO 132	33 F.R. 10951—8-1-68	DAO 201-5.
DO 163	30 F.R. 12957—10-12-65	DAO 210-8.
DO 195	31 F.R. 15548—12-9-66	DAO 201-7.

Administrative order (AO)	F.R. citation and date	Department administrative order (DAO)
AO 201-17	33 F.R. 9337—6-26-68	DAO 201-17.
AO 203-18	32 F.R. 5055—3-27-68	DAO 203-18.
AO 208-14	32 F.R. 15890—11-18-67	DAO 208-14.
AO 201-25	28 F.R. 7772—7-31-63	DAO 217-6.
AO 202-294	34 F.R. 14771—9-25-69	DAO 202-294.

Dated: December 19, 1969.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 70-6; Filed, Jan. 2, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DICAMBA AND ITS METABOLITE

Notice of Establishment of Temporary Tolerance for Pesticide Chemical

Notice is given that at the request of the Velsicol Chemical Corp., 1725 K Street NW., Washington, D.C. 20006, a temporary tolerance of 1 part per million is established for combined residues of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-*o*-anisic acid in or on the raw agricultural commodity asparagus. The Commissioner of Food and Drugs has determined that this temporary tolerance will protect the public health.

A condition under which this temporary tolerance is established is that the herbicide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the Velsicol Chemical Corp. name.

This temporary tolerance expires December 17, 1970.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: December 17, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11; Filed, Jan. 2, 1970; 8:45 a.m.]

[Docket No. FDC-D-138; NDA No. 8-353V]

CHAS. PFIZER & CO.

Bloat Remedy; Notice of Opportunity for Hearing

An announcement published in the FEDERAL REGISTER of January 17, 1969 (34 F.R. 771), invited Chas. Pfizer & Co., 235 East 42d Street, New York, N.Y. 10017, holder of the new animal drug application for Bloat Remedy (a drug containing 10 percent weight-to-volume of pelargonic acid, 10 percent weight-to-volume of propylene glycol laurate, and 45 percent by volume of isopropyl alcohol) and any other interested person to submit pertinent data on the drug's effectiveness. No new efficacy data were furnished in response to the announcement and available information still fails to provide substantial evidence of effectiveness of the drug for its recommended use as a bloat remedy for cattle.

Therefore, notice is given to Chas. Pfizer & Co., and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of new animal drug application No. 8-353V and all amendments and supplements thereto held by Chas. Pfizer & Co. for the drug Bloat Remedy on the grounds that:

Information before the Commissioner with respect to the drug, evaluated together with the evidence available to him when the application was approved, does not provide substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new animal drug application No. 8-353V should not be withdrawn. Promulgation of the order will cause any drug containing pelargonic acid, propylene glycol laurate and isopropyl alcohol, and recommended for the same conditions of use as Bloat Remedy to be a new drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20204, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new animal drug application.

Failure of such persons to file a written appearance of election within 30 days following date of publication of this notice in the FEDERAL REGISTER will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they are required to file a written appearance requesting the hearing, giving the reasons why the approval of the new animal drug application should not be withdrawn, together with a well organized and full factual analysis of the clinical and other investigational data he is prepared to prove in opposition to the notice for hearing. The request must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If the hearing is requested and justified by the response to the notice of hearing, the issues will be defined, a hearing examiner will be appointed, and he shall issue a written notice of the time and place at which the hearing will commence. (34 F.R. 14596, Sept. 19, 1969)

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: December 18, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12; Filed, Jan. 2, 1970; 8:45 a.m.]

[Docket No. FDC-D-137; NDA No. 11-712V]

S. E. MASSENGILL CO.

Hemostop; Notice of Withdrawal of Approval of New Animal Drug Application

An announcement of intent to initiate proceedings to withdraw approval of the new animal drug application for Hemostop was published in the FEDERAL REGISTER of February 1, 1969 (34 F.R. 1611).

The S. E. Massengill Co., Bristol, Tenn. 37620, sponsor of new animal drug application No. 11-712V covering the drug Hemostop (adrenochrome isonicotinic acid hydrazone), has requested that the Commissioner of Food and Drugs, without further notice, enter a final order withdrawing the application's approval.

The Commissioner of Food and Drugs finds on the basis of new information be-

fore him with respect to said drug, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that said drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Based on the foregoing request and findings the Commissioner concludes that approval of new animal drug application No. 11–712V should be withdrawn. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–47; 21 U.S.C. 306b(e)) and under authority delegated to the Commissioner (21 CFR 2.120), approval of new animal drug application No. 11–712V including all amendments and supplements thereto, is hereby withdrawn effective on the date of signature of this document.

Dated: December 18, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 70–13; Filed, Jan. 2, 1970; 8:45 a.m.]

[Docket No. FDC–D–141; NDA Nos. 10–613, 8–530]

WINTHROP PRODUCTS, INC., AND WINTHROP LABORATORIES

Alevaire; Extension of Time for Filing Request for Hearing

In the FEDERAL REGISTER of December 6, 1969 (34 F.R. 19389), notice was given to Winthrop Products, Inc., and Winthrop Laboratories, Division of Sterling Drug, Inc., and to any interested person who might be adversely affected, that the Commissioner of Food and Drugs proposed to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of Winthrop Products' new-drug application No. 10–613 for Alevaire (tyloxapol 0.125 percent) and Winthrop Laboratories' new-drug application No. 8–530 for Alevaire (tyloxapol 0.125 percent), and all amendments and supplements thereto, on the grounds that there is a lack of substantial evidence that Alevaire has the effect which it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

The notice specified that within 30 days after its date of publication in the FEDERAL REGISTER, such persons were required to file a written appearance electing whether or not to avail themselves of the opportunity for a hearing.

The Commissioner has received a request from counsel for Winthrop Products, Inc., and Winthrop Laboratories for additional time for filing a written appearance of election and request for hearing because of the holidays. The Commissioner concludes that the request should be granted; therefore, the date by which interested persons are required to file a written appearance electing whether or not to avail themselves of the opportunity for a hearing is hereby extended to January 20, 1970.

This action is taken pursuant to provisions of the act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: December 31, 1969.

CHARLES C. EDWARDS,
Acting Commissioner of Food and Drugs.

[F.R. Doc. 70–112; Filed, Jan. 2, 1970; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21223; Order 69–12–121]

FLYING TIGER LINE INC.

Order Tentatively Approving Control and Interlocking Relationships and Transfer of Certificates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of December 1969.

By application filed July 23, 1969, the Flying Tiger Line Inc. (Flying Tiger) requested that the Board disclaim jurisdiction over or approve certain transactions relative to a plan of corporate reorganization to be undertaken by Flying Tiger as a method of diversification into other business activities. In addition, the applicant requested that the Board approve the transfer of Flying Tiger's certificates of public convenience and necessity to a new operating company to be formed under the plan.

The plan of reorganization contemplates the formation by Flying Tiger of a wholly owned subsidiary, the Flying Tiger Corporation (FTC), and the organization by FTC of its own wholly owned subsidiary, FTL Air Freight Corp. (New Tiger). Flying Tiger, FTC, and New Tiger will enter into a merger agreement providing for the merger of Flying Tiger into New Tiger, which will receive all of the properties and assets of Flying Tiger and assume all of its liabilities.[1] Under the merger agreement each share of Flying Tiger's outstanding common stock will be exchanged for one share of the common stock of FTC. After the merger, Flying Tiger's existing air carrier activities will be continued by New Tiger which will change its name to the Flying Tiger Line Inc. In addition, the directors and officers of FTC and New Tiger will be the same or substantially the same as those of Flying Tiger. The directors of FTC will be directors of New Tiger, and some of the officers of both FTC and New Tiger will be the same individuals. The merger and reorganization are subject to approval by Flying Tiger's shareholders and to the condition that an Internal Revenue Service ruling, or a satisfactory opinion of counsel, is obtained to the effect that the transaction will be accomplished on a tax-free basis.

Specifically, Flying Tiger has requested that the Board disclaim jurisdiction over or approve (1) under section 408 of the Federal Aviation Act of 1958, as amended (the Act), the merger of Flying Tiger into New Tiger and the acquisition of control by FTC of the surviving corporation, New Tiger, and (2) under section 409 of the Act, the interlocking relationships involving FTC and New Tiger as proposed in the plan of reorganization. The application also requested approval under section 401(h) of the transfer of Flying Tiger's certificates of public convenience and necessity for Routes 100 and 163.

In previous instances we have disclaimed jurisdiction over such reorganization.[2] However, with the passage of Public Law 91–62, effective August 5, 1969, Congress in amending section 408 of the Act has indicated its desire that the Board approve the acquisition of control of an air carrier by "any person." Congress indicated its concern with the financial manipulation to which air carriers might be subjected by changes in control, and also with the possibility that air carriers be diverted by those acquiring control from their principal function as common carriers.

We therefore have jurisdiction over the transaction, which places FTC, a new corporation, in control of Flying Tiger. Having considered the application, we have tentatively decided to approve (1) the merger of Flying Tiger into New Tiger, (2) the acquisition of control by FTC of New Tiger, and (3) the interlocking relationships between FTC and New Tiger; and (4) the transfer to New Tiger of Flying Tiger's certificates of public convenience and necessity.

The plan before the Board provides for the reorganization of Flying Tiger as an operating subsidiary of a newly formed holding company. New Tiger is to be organized as a subsidiary shell of FTC and, upon completion of the transfer of Flying Tiger's property and assets, will be essentially the same corporation as Flying Tiger and operate under the same name. Flying Tiger's present stockholders will become the stockholders of FTC. The same or substantially the same persons serving as officers and directors of Flying Tiger will serve as officers and directors of FTC and New Tiger. We therefore have determined under the third proviso of section 408(b) that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest is requesting a hearing and we tentatively conclude that the public interest does not require a hearing. The reorganization will continue the air carrier activities of Flying Tiger, and will enable the new parent corporation to engage in diversified ac-

[1] Flying Tiger's subsidiaries, Flying Tiger Air Services, Inc. (control relationship approved by Order E–24030, Aug. 2, 1966) and Tiger Investment Co. (a dormant company), will become subsidiaries of New Tiger.

[2] See e.g., United Air Lines, Inc., Order 69–4–67, Feb. 17, 1969.

tivities while it in turn controls the air carrier. In this respect we note that our approval of the reorganization is based upon the current factors affecting the control by the parent corporation of the air carrier. Because we have no information on the activities which FTC will engage in other than its control of New Tiger, our approval herein extends only to FTC's control of New Tiger. We shall condition such approval upon the requirement that subsequent acquisitions of control by FTC be submitted for prior Board approval to insure that the obligations and integrity of the air carrier are not compromised or impaired.

In view of the foregoing the Board tentatively concludes that it should approve under sections 408 and 409 of the Act the above-described relationships resulting from the reorganization of Flying Tiger. Accordingly, this order, constituting notice of such intention, will be published in the FEDERAL REGISTER, and interested persons will be afforded an opportunity to comment on the Board's decision.

With respect to the transfer of certificates, we believe that New Tiger will be, of for all practical purposes, the same company as Flying Tiger with the same officers and directors, and accordingly, we tentatively conclude that approval of the transfer to New Tiger of the certificates of public convenience and necessity presently held by Flying Tiger is consistent with the public interest and should be approved.[3]

Accordingly, it is ordered, That:

1. Tentative approval be and it hereby is granted to (a) the merger of Flying Tiger into New Tiger; (b) the acquisition of control by FTC of New Tiger; (c) the interlocking relationships between FTC and New Tiger; and (d) the transfer to New Tiger of Flying Tiger's certificates of public convenience and necessity;

2. The approval in (1) above is subject to the condition that subsequent acquisitions of control by FTC of any person shall be submitted to the Board for prior approval;

3. To the extent not tentatively granted herein, the application is denied;

4. Interested persons are afforded a period of ten (10) days within which to file comments on or request a hearing with respect to the Board's proposed action on the application in Docket 21223; [4] and

5. The Attorney General of the United States be furnished a copy of this order within 1 day of publication.

[3] In its final order, the Board will approve the transfer of Flying Tiger's existing exemption authority, and permit New Tiger, prior to changing its name to The Flying Tiger Line Inc., to prosecute pending applications of Flying Tiger without further action by the Board, subject to the filing by New Tiger of an appropriate notice of the substitution in the dockets of such proceedings.

[4] Comments so filed shall conform to the requirements of the Board's rules of practice (14 CFR Part 302) for the filing of documents. Furthermore, since an opportunity to file comments is provided for, petitions for reconsideration of this order will not be entertained.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 70-50; Filed, Jan. 2, 1970; 8:47 a.m.]

[Docket No. 20993; Order 69-12-128]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority December 30, 1969.

By Order 69-12-74, dated December 16, 1969, action was deferred, with a view toward eventual approval, on certain resolutions adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 69-12-74 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21380, R-9 through R-12, be, and it hereby is, approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 70-51; Filed, Jan. 2, 1970; 8:47 a.m.]

CIVIL SERVICE COMMISSION

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the American Revolution Bicentennial Commission to fill by noncareer executive assignment in the excepted service the position of Deputy Executive Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-35; Filed, Jan. 2, 1970; 8:47 a.m.]

[5] Dissenting opinion of members Minetti and Murphy filed as part of the original document.

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the American Revolution Bicentennial Commission to fill by noncareer executive assignment in the excepted service the position of Executive Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-36; Filed, Jan. 2, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Administrator, Rural Community Development Service" to "Rural Development Coordinator, Office of the Assistant Secretary for Rural Development and Conservation".

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-37; Filed, Jan. 2, 1970; 8:47 a.m.]

FEDERAL POWER COMMISSION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Power Commission to fill by noncareer executive assignment in the excepted service the position of Assistant to the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-38; Filed, Jan. 2, 1970; 8:47 a.m.]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of

Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Chief, Community Action Support Division, Office of Operations.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-39; Filed, Jan. 2, 1970; 8:47 a.m.]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Associate Director for Program Operations and Urban Affairs, Office of Program Operations, Community Action Program.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-40; Filed, Jan. 2, 1970; 8:47 a.m.]

CONFIDENTIAL ASSISTANT TO THE ASSISTANT SECRETARY AND COMMISSIONER, OFFICE OF EDUCATION

Manpower Shortage

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on December 17, 1969, for the single position of Confidential Assistant to the Assistant Secretary and Commissioner, Office of Education, HEW, Washington, D.C., GS-1720-15. This position is in lieu of the position titled Education Program Specialist (Employer-Employee Relations) GS-1720-15, in the same office, for which a manpower shortage was found on October 9, 1969.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-41; Filed, Jan. 2, 1970; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

ATLANTIC LINES, LTD., AND PAN AMERICAN MAIL LINE, INC.

Notice of Agreement Filed

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 the agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. S. Doolos, Manager, Conference and Tariffs, Chester, Blackburn & Roder, Inc., 1 Whitehall Street, New York, N.Y. 10004.

Agreement No. 9834 between Atlantic Lines, Ltd., and Pan American Mail Line, Inc., establishes a through billing arrangement for the transportation of general cargo in the trade from Aruba, Bonaire, Curacao, and ports in Jamaica to St. Thomas and St. Croix, V.I., with transshipment at Miami, Fla.

Dated: December 30, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-53; Filed, Jan. 2, 1970; 8:47 a.m.]

COSTA LINE AND FASSIO LINE

Notice of Agreement Filed

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 the agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Burton H. White, Burlingham Underwood Wright White & Lord, 25 Broadway, New York, N.Y. 10004.

Agreement 9797-1 between Costa Line and Fassio Line modifies the basic joint service agreement between these two lines to provide that they may join any conference, pooling or other agreement in the trades covered by their agreement as separate parties and vote independently of each other on matters coming before such agreements. The joint service agreement currently provides that they shall act as a single member or party only to other agreements.

Dated: December 30, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-54; Filed, Jan. 2, 1970; 8:47 a.m.]

MARSEILLES NORTH ATLANTIC U.S.A. FREIGHT CONFERENCE

Notice of Agreement Filed

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 the agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or

unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Guy L. Retournat, Secretary, Marseilles North Atlantic U.S.A. Freight Conference, 10, Place de la Joliette, Marseilles 2, France.

Agreement No. 5660–14, between the member lines of the Marseilles North Atlantic U.S.A. Freight Conference, amends Article 3 of the basic agreement to provide that membership shall automatically cease when there shall have been no sailings for three (3) consecutive months or more or if a Line has carried less than two hundred (200) tons on a transshipment basis by water during the same period.

Dated: December 30, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–56; Filed, Jan. 2, 1970; 8:47 a.m.]

NEW YORK SHIPPING ASSOCIATION, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed 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 the agreement at the offices of the District Managers, New York, N.Y.; New Orleans, La.; and San Francisco, Calif.

By order served November 28, 1969, in Docket No. 69–57 the Commission instituted an investigation to determine whether Agreement No. T–2336, a temporary assessment formula between the members of the New York Shipping Association, should be approved, modified, or disapproved pursuant to section 15, Shipping Act, 1916. Agreement No. T–2364, the subject agreement, will be included in Docket No. 69–57, since the Commission's order stated that in the event any modification of Agreement No. T–2336, or further agreement establishing a temporary or permanent assessment formula was filed with the Commission, such agreement would be made subject to the investigation. Persons who desire to become parties to this proceeding and to participate herein, shall promptly file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

Notice of agreement filed for approval by:

Mr. Alfred Giardino, Lorenz, Finn & Giardino, 21 West Street, New York, N.Y. 10006.

Agreement No. T–2364 between the members of the New York Shipping Association (NYSA) replaces T–2336, the temporary assessment formula, adopted by NYSA to meet its obligation provided for in collective bargaining agreements with the International Longshoreman's Association. The new agreement provides for an assessment of $2.07 per ton of cargo loaded and discharged for account of each member with the following exceptions:

1. Tons of unboxed automobiles shall be calculated at 25% of the cubic measurement of the vehicles.

2. Tons of containerized cargo shall be calculated at actual cargo tons if such basis is used for determining ocean freight, or, if any other method of freighting is utilized, tons shall be calculated at 70% of the inside volume of the container.

3. Bulk cargo, including scrap and sugar; all domestic cargo including coastwise and intercoastal traffic; and passengers and their personal baggage shall be assessed on a man-hour basis and continue to pay royalty where applicable.

The agreement also requires each member, directly or through its agent, to file periodic reports with NYSA to implement the assessment method. Each direct employer shall report tonnages handled by it for the account of nonmember steamship carriers.

Dated: December 30, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–57; Filed, Jan. 2, 1970; 8:47 a.m.]

PORT OF SEATTLE AND CONTAINER FREIGHT SYSTEMS, INC.

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(s) at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1202, or may inspect agreements at the offices of the District Managers, New York, N.Y.; New Orleans, La.; and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. P. McCutchan, Manager, Property Management Department, Port of Seattle, Post Office Box 1209, Seattle, Wash. 98111.

Agreement No. T–2361 between the Port of Seattle (Port) and Container Freight Systems, Inc. (CFS), permits CFS to occupy space on Port property for operation as a container freight station. As rental CFS will pay Port ten percent (10%) of the gross accrued earnings by CFS from all work or operations carried on at the leased premises. CFS must assess rates that are competitive with those charged in the market area.

Dated: December 30, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–58; Filed, Jan. 2, 1970; 8:47 a.m.]

[Docket No. 69–59]

L.T.C. AIR CARGO, INC.

Independent Ocean Freight Forwarder License Application

By letter of November 24, 1969, L.T.C. Air Cargo, Inc., 124–19 Old South Road, South Ozone Park, N.Y. 11430, was notified of the Federal Maritime Commission's intent to deny its application for an independent ocean freight forwarder license.

Reasons for the intended denial were (a) that an earlier application by a principal of L.T.C. Air Cargo, Inc., had been denied by the Commission due to unauthorized performance of independent ocean freight forwarder services without a license in apparent violation of section 44(a), Shipping Act, 1916; (b) that L.T.C. Air Cargo, Inc., had recently forwarded ocean shipments without a license also in apparent violation of section 44(a) and; (c) that a principal of L.T.C. Air Cargo, Inc., may willfully have given incorrect information to a Commission representative on at least two occasions in connection with the license application of L.T.C. Air Cargo, Inc.

Section 44(a), Shipping Act, 1916 (46 U.S.C. 841b) prohibits the performance of independent ocean freight forwarder services without a license issued by the Federal Maritime Commission to engage in such business. Section 44(b), Shipping Act, 1916, provides that a license shall be issued to any qualified applicant therefor; provided the Federal Maritime Commission finds such applicant to be "* * * fit, willing, and able properly to carry on the business of forwarding and to conform to the provisions of this Act * * *".

L.T.C. Air Cargo, Inc., has requested a hearing to show that denial of a license is unwarranted.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821 and 841b) that a proceeding is hereby instituted to determine whether, in view of the past activities of its principal, L.T.C. Air Cargo, Inc., is "fit" to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, within the meaning of that statute; and whether its application should be granted or denied.

It is further ordered, That this proceeding determine whether L.T.C. Air Cargo, Inc., has violated section 44(a), Shipping Act, 1916.

It is further ordered, That L.T.C. Air Cargo, Inc., be made respondent in this proceeding and that the matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners on a date and place to be announced.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondent.

It is further ordered, That any persons, other than the respondent, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with a copy to respondent.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-55; Filed, Jan. 2, 1970; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI70-859, etc.]

G. H. VAUGHN, JR., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 23, 1969.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 10, 1970.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-859	G. H. Vaughn, Jr., and Jack C. Vaughn (operator) et al.	1	11	Tennessee Gas Pipeline Co., a division of Tenneco Inc.	----------	11-24-69	[3] 11-24-69	[4] 11-25-69	15.0	[5][6] 15.05625	
RI70-860	V. F. Neuhaus	7	2	Florida Gas Transmission Co	----------	11-24-69	[3] 11-24-69	[4] 11-25-69	15.0	[5][6] 15.065625	
RI70-861	Estate of F. Julius Fohs et al.	4	5	Tennessee Gas Pipeline Co., a division of Tenneco, Inc.	----------	11-26-69	[3] 11-26-69	[4] 11-27-69	14.6	[5][6] 14.65475	
RI70-862	Herman F. Heep Estate et al.	3	6	do	----------	11-24-69	[3] 11-24-69	[4] 11-25-69	15.0	[5][6] 15.065625	
	do	2	7	Texas Eastern Transmission Corp	----------	11-24-69	[3] 11-24-69	[4] 11-25-69	14.6	[5][6] 14.663875	
	do	1	11	do	----------	11-24-69	[3] 11-24-69	[4] 11-25-69	15.0	[5][6] 15.065625	
RI70-863	Austral Oil Co., Inc., agent for Oil Participations, Inc.	4	9	Tennessee Gas Pipeline Co., a division of Tenneco, Inc.	----------	11-28-69	[3] 11-28-69	[4] 11-29-69	15.0	[5][6] 15.05625	
RI70-864	Perry R. Bass (Operator) et al.	1	[8] 1 to 5	El Paso Natural Gas Co	----------	11-26-68	[3] 11-26-69	[4] 11-27-69	[9] 14.85	[5][6] 14.3034	
	do	19	[10] 3	Northern Natural Gas Co	----------	11-26-69	[3] 11-26-69	[4] 11-27-69	[10] 16.5	[5][6][10] 16.5619	

[3] The stated effective date is the date of filing pursuant to the Commission's Order No. 390 issued Oct. 10, 1969.
[4] The suspension period is limited to 1 day.
[5] Tax reimbursement increase.
[6] Pressure base is 14.65 p.s.i.a.
[7] Supersedes filing submitted on Oct. 23, 1969, Supplement No. 5.
[8] Base rate is 16.5 cents per Mcf minus 2.25 cents treating costs.
[9] Applicable to gas-well gas only.

The proposed rate increases herein reflect the 0.5 percent increase in the production tax from 7 percent to 7.5 percent enacted by the State of Texas on September 9, 1969, to be effective as of October 1, 1969. All of the proposed rates herein exceed the applicable area ceiling for the areas involved as announced in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR § 2.56).

We believe that it would be in the public interest to waive the statutory notice provided in section 4(d) of the Natural Gas Act. Pursuant to Commission Order No. 390 issued October 10, 1969, the producers' proposed rate increases from underlying firm rates are suspended for 1 day from the date of filing since such filings were made after October 31, 1969.

[F.R. Doc. 70-5; Filed, Jan. 2, 1970; 8:45 a.m.]

[Dockets Nos. RI66-236, RI66-335]

MOBIL OIL CORP. ET AL.

Order Consolidating Proceedings and Setting Matters for Hearing

DECEMBER 24, 1969.

On November 26, 1969, Phillips Petroleum Co. (Phillips) filed separate applications for rehearing and reconsideration of the Commission's orders issued October 15, 1969, in Docket No. RI66-236[1] and November 14, 1969, in Docket No. RI66-335. In these orders, the Commission accepted for filing increased rate filings reflecting the 0.5 percent increase in the production tax recently enacted by the State of Texas and permitted such increased rates to become effective subject to refund in the above-entitled proceedings.[2]

Phillips in these documents states that it does not question the contractual rights of either Mobil or Ashland to receive an increase in tax reimbursement reflecting such increased production tax on and after October 1, 1969. However, Phillips contends that such filings are in error inasmuch as the base rate reflected therein, upon which the increased tax reimbursements are computed, are not in accordance with the provisions of the contracts underlying the subject rate schedules relating to sales to Phillips. Phillips claims that under the terms of these contracts the base rates were reduced effective as of August 1, 1969. Phillips thus objects to both the base rates contained in the subject filings and the tax reimbursement computations which are based on such base rates. Phillips advised the Commission of these objections by protests filed on October 17, 1969, with respect to Mobil's filing and on November 17, 1969, with respect to Ashland's filing. Phillips requests that the Commission reconsider its orders in light of the information contained in its prior protests, rescind the aforementioned suspension orders, and reject the increased rate filings without prejudice to respondent's refiling for increased tax reimbursements to be effective on October 1, 1969, based upon what it considers to be the correct base prices in effect under these contracts on that date.

The subject increased rate filings were not accepted without refund obligation, but instead were accepted for filing and permitted to become effective subject to refund in the above-entitled proceedings because the increased rates involved exceeded the applicable area rate ceiling as set forth in the Commission's statement of general policy No. 61-1, as amended. No action was taken on Phillips protests because the protests were not filed until after the issuance of our orders herein. However, the Commission's acceptance of these filings, subject to refund, had the effect of placing in issue any contractual questions with respect to such filings as well as the question of the justness and reasonableness of the proposed rate.

We believe it appropriate to consolidate these proceedings and to set these contractual matters for hearing. The hearing provided for herein will be limited to the contractual basis for the subject rate filings. The question of the justness and reasonableness of such rates will be determined in the appropriate area rate proceeding.

We shall provide for a hearing conference at which the factual matters to be resolved by formal evidentiary hearing, if any, will be ascertained. It is hoped that all matters which can be resolved without the necessity for a formal presentation will be settled by stipulation.

In view of our action herein, there is no need to take any action on the application for rehearing and the motion for reconsideration filed by Phillips.

The Commission orders:

(A) The proceedings in Dockets Nos. RI66-236 and RI66-335 are consolidated for the limited purpose involved in this hearing.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 14, 15, and 16, thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held to determine the contractual basis for the rate filings contained in Supplement No. 19 to Mobil's FPC Gas Rate Schedule No. 67 (Docket No. RI66-236), and Supplement Nos. 5 and 4 to Ashland's FPC Gas Rate Schedules Nos. 117 and 118, respectively (Docket No. RI66-335).

(C) A Presiding Examiner, to be hereinafter designated by the Chief Examiner, shall preside at both the prehearing conference and the hearing.

(D) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference shall commence at 10 a.m., e.s.t., on February 24, 1970, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., for the purpose of effectuating this order.

(E) Following the prehearing conference, the Presiding Examiner shall give notice of the date of hearing and shall prescribe such other procedures as he deems appropriate in the disposition of these matters.

(F) Notices of intervention or petitions seeking leave to intervene shall be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 26, 1970.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 70-61; Filed, Jan. 2, 1970; 8:47 a.m.]

[1] Phillips' application for rehearing in Docket No. RI66-236 is treated herein as a motion for reconsideration, rather than an application for rehearing under § 1.34 of the Commission's rules, since the application was not timely filed.

[2] By order issued Oct. 15, 1969, under lead Docket No. RI70-284 et al., in Mobil Oil Corp., et al. the said tax increase filing, designated as Supplement No. 19 to Mobil Oil Corp. (Operator), et al. FPC Gas Rate Schedule No. 67, was accepted subject to refund in Docket No. RI66-236. By letter order issued Nov. 14, 1969, Supplement Nos. 5 and 4 to Ashland Oil & Refining Co.'s FPC Gas Rate Schedule Nos. 117 and 118, respectively, were accepted subject to refund in Docket No. RI66-335.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

CLAIMS AGAINST GOVERNMENTS OF BULGARIA, RUMANIA AND ITALY BY U.S. NATIONALS

Notice of Time for Filing

Notice is hereby given that pursuant to paragraph (d) of section 304, and paragraph (b) of section 316, Title III of the International Claims Settlement Act of 1949 (64 Stat. 12), as amended, the Foreign Claims Settlement Commission of the United States will receive at its principal office located at 1111 20th Street NW., Washington, D.C. 20579, during the period beginning on the publication date of this notice, and ending June 30, 1970, claims against the Governments of Bulgaria, Rumania, and Italy, in accordance with the Bulgarian Claims Agreement of July 2, 1963, the Rumanian Claims Agreement of March 30, 1960, and subsections (b) and (c) of section 304 of title III of the International Claims Settlement Act of 1949, as amended by Public Law 90-421 (82 Stat. 420), approved July 24, 1968, and in accordance with the regulations of the Commission made with respect thereto.

Dated: December 30, 1969, at Washington, D.C.

ANDREW T. MCGUIRE, *General Counsel.*

[F.R. Doc. 70-43; Filed, Jan. 2, 1970; 8:47 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

ALASKA

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); and 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); notice is hereby given that on December 19, 1969, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Alaska, adversely

affected by unusually heavy rains and a landslide beginning on or about November 28, 1969, are 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 Alaska.

I do hereby determine the following area in the State of Alaska to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 19, 1969:

The Ketchikan Gateway Borough.

Dated: December 24, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70–19; Filed, Jan. 2, 1970; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30 (New York), Amdt. 3]

NEW YORK AREA COORDINATORS ET AL.

Delegation of Authority To Conduct Program Activities in New York Area

Pursuant to the authority delegated to the Area Administrators by Delegation of Authority No. 30 (Revision 12), 32 F.R. 179 dated January 7, 1967, as amended (32 F.R. 8113, 33 F.R. 8793, 33 F.R. 17217, 33 F.R. 19097, 34 F.R. 5134, 34 F.R. 11165, 34 F.R. 12651, 34 F.R. 14712, and 34 F.R. 17464) Delegation of Authority No. 30 (New York Area), 33 F.R. 10673, as amended (33 F.R. 15141 and 34 F.R. 7884), is hereby further amended by:

1. Revising Item I by adding thereto a new Item I.H., to read as follows:

I. *Area Coordinators.* * * *

H. *Office Services Manager or Office Services Assistant.* 1. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

2. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

* * * * *

2. Revising Item II.A.1 and II.A.2 to read as follows:

II. *Regional Directors.*—A. *Financial assistance.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $500,000, and to decline them in any amount.

* * * * *

3. Revising Item II.B., by adding thereto a new Item II.B.7. and II.B.8., to read as follows:

II. *Regional Directors.** * *

B. *Development Company Assistance.* * * *

7. To enter into section 502 loan participation agreements with banks.

8. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

* * * * *

4. Revising Items II.C. through II.M., and adding thereto a new Item II.N., all to read as follows:

II. *Regional Directors.* * * *

C. *Lease guarantee.* 1. To approve or decline applications for the direct guarantee of the payment of rent not to exceed $500,000.

2. To issue and modify commitment letters, said issuance to read as follows:

(Name), Administrator
By _____
(Name)
Regional Director.
(City)

3. To service claims arising under all policies issued under delegated authority in region, including the payment, but not denial, of claims.

4. To take all actions necessary to mitigate losses.

D. *Size determinations.* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

E. *Eligibility determinations.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC program, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

F. *Administration.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

3. In connection with the establishment of Disaster Loan Offices, to obligate Small Business Administration to reimburse the General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

G. *Chiefs, Financial Assistance Division (and Assistant Chiefs, if assigned)*—1. Size determinations for financial assistance only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

2. Eligibility determinations for financial assistance only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2 (e) of SBA Loan Policy Regulations.

3. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

4. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000, and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $350,000, and to decline them in any amount.

5. To close and disburse approved business, economic opportunity, and disaster loans.

6. To enter into business, economic opportunity, and disaster loan participation agreements with banks.

7. To execute loan authorizations for Central Office, area, and regional approved loans and loans approved under the delegated authority, said execution to read as follows:

(Name), Administrator
By _____
(Name)
(Title of person signing).

8. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, and disaster loans.

9. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

10. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

11. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

12. To take all necessary actions in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quit-claim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privileges under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation of guaranty agreement.

H. Supervisory Loan Officer and/or Assistance Team Leader. 1. To close and disburse approved business, economic opportunity, and disaster loans.

2. To enter into business, economic opportunity, and disaster loan participation agreements with banks.

3. To execute loan authorizations for Central Office, area, and regional approved loans, said execution to read as follows:

(Name), Administrator
By ----------
(Name)
(Title of person signing).

4. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, and disaster loans.

5. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

6. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

8. To take all necessary actions in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privileges under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

9. Size determinations for financial assistance only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

10. Eligibility determinations for financial assistance only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

I. *Loan Officer (Financial Assistance).* 1. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

2. To close and disburse approved business, economic opportunity, and disaster loans.

J. Chief, Development Company Assistance Division. 1. To close and disburse sections 501 and 502 loans.

2. To extend the disbursement period on sections 501 and 502 loans, authorizations or undisbursed portions of sections 501 and 502 loans.

3. To execute sections 501 and 502 loan authorizations for Central Office, area, and regional approved loans, said execution to read, as follows:

(Name), Administrator
By ----------
(Name)
Chief, Development Company Assistance Division.

4. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

5. To take all necessary actions in connection with the administration, servicing, and collection; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, con-

tracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank application for use of liquidity privilege under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebedtness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

6. To enter into section 502 loan participation agreements with banks.

7. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

K. *Loan Officer (Development Company Assistance)*. 1. To close and disburse section 501 and 502 loans.

2. To extend the disbursement period on section 501 and 502 loans.

3. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

4. To approve final actions concerning current direct, participation, and First Mortgage Plan 502 loans.

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to applications against premiums.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

5. To enter into section 502 loan participation agreement with banks.

6. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

L. *Regional Council* [Reserved].

M. *Chief, Accounting, Clerical and Training Division*. 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorney in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

5. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity and disaster loans. **

6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans, except sections 501 and 502 loans. **

7. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy. **

b. Release of dividends of life insurance or consent to application against premiums.**

c. Minor modifications in the authorization.**

d. Adjustment of interest payment dates.**

e. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.**

f. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.**

N. *Assistant Chief, Accounting, Clerical and Training Division*. 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorney in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

III. *Branch Manager* [Reserved].

IV. The specific authority delegated herein, indicated by double asterisks (**) cannot be redelegated.

V. The authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

VI. All previously delegated authority is hereby rescinded without prejudice to actions taken under such Delegations of Authority prior to the date hereof.

Effective date: December 8, 1969.

CHARLES H. KRIGER,
Area Administrator,
New York Area.

[F.R. Doc. 70-48; Filed, Jan. 2, 1970; 8:47 a.m.]

[Delegation of Authority No. 30-6 (Revision 6), Southwestern Area, Dallas, Tex.]

SOUTHWESTERN AREA COORDINATORS ET AL.

Delegation of Authority To Conduct Program Activities in Southwestern Area

Pursuant to the authority delegated to the Area Administrator by Delegation of Authority No. 30 (Revision 12), 32 F.R. 179, dated January 7, 1967, as amended (32 F.R. 8113, 33 F.R. 8793, 33 F.R. 17217, 33 F.R. 19097, 34 F.R. 5134, 34 F.R. 11165, 34 F.R. 12651, 34 F.R. 14712, and 34 F.R. 17464), the following authority is hereby redelegated to the positions as indicated herein:

I. *Area Coordinators*—A. *Development Company Assistance Coordinator*—1. *Eligibility determinations (for financial assistance only)*. To determine eligibility of applicants for assistance under the sections 501 and 502 programs of the Agency in accordance with Small Business Administration standards and policies.

2. *Size determinations (for financial assistance only)*. To make initial size determinations in all sections 501 and 502 loans within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for sections 501 and 502 loans only. Product classification decisions for procurement purposes are made by contracting officers.

B. *Liquidation and Disposal Coordinator*. 1. To take all necessary actions in connection with the liquidation and disposal of all loans and other obligations or assets, including collateral purchased; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or

to property of any kind legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quit-claim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. To take all necessary action in liquidating Economic Development Administration loans and acquired collateral when and as authorized by Economic Development Administration.

d. To advertise regarding the public sale of (1) collateral and connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Adminisration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

C. *Supervisory Liquidation and Disposal Officer.* 1. To take all necessary actions in connection with the liquidation and disposal of all loans and other obligations or assets, including collateral purchased; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. To take all necessary action in liquidating Economic Development Administration loans and acquired collateral when and as authorized by Economic Development Administration.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; and (3) the cancellation of authority to liquidate.

D. *Area Claims Review Committee.* To consist of the liquidation and disposal coordinator, area counsel, and the area supervisory appraiser who will meet and consider reasonable and properly supported compromise proposals of indebtedness owed to the Agency and to take final action on such proposals provided such action represents the majority recommendation of the committee on claims not in excess of $5,000 (including CPC advances but excluding interest), or represents the unanimous recommendation of said committee on claims in excess of $5,000 but not exceeding $100,000 (including CPC advances but excluding interest).

E. *Financial Assistance Coordinator*—1. *Eligibility determinations (for financial assistance only).* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

2. *Size determinations (for financial assistance only).* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans; and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

F. *Procurement and Management Assistance Coordinator*—1. *Eligibility determinations (for PMA activities only).* To determine eligibility of applicants for assistance under any program of the Agency in accordance with Small Business Administration standards and policies.

2. *Size determinations (for PMA activities only).* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

G. *Area Administrative Officer.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

3. In connection with the establishment of Disaster Loan Offices, to obligate Small Business Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

H. *Office Services Manager or Office Services Assistant.* 1. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

2. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

II. *Regional Directors*—A. *Financial Assistance.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $500,000, and to decline them in any amount.

3. To close and disburse approved loans.

4. To enter into business, economic opportunity and disaster loan participation agreements with banks.

5. To execute loan authorizations for Washington and area approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By _____
(Name)
Regional Director.
(City)

6. To cancel, reinstate, modify and amend authorizations for business, economic opportunity, and disaster loans.

7. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

8. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

9. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

**10. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

11. To take all necessary actions in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quit-claim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. Except (1) to compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

B. *Development Company Assistance.*

**1. To approve or decline section 501 State Development Company loans and Section 502 Local Development Company loans up to $350,000 (SBA share).

2. To close and disburse sections 501 and 502 loans.

3. To extend the disbursement period on sections 501 and 502 loan authorizations or undisbursed portions of sections 501 and 502 loans.

4. To execute sections 501 and 502 loan authorizations for Central Office and area approved loans and for loans approved under delegated authority, said execution to read, as follows:

(Name), Administrator
By ----------
Regional Director.
(City)

5. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

6. To take all necessary actions in connection with the administration, servicing, and collection; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

7. To enter into section 502 loan participation agreements with banks.

8. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

C. *Lease guarantee.* 1. To approve or decline applications for the direct guarantee of the payment of rent not to exceed $500,000.

2. To issue and modify commitment letters, said issuance to read as follows:

(Name), Administrator
By ----------
(Name)
Regional Director.
(City)

3. To service claims arising under all insurance policies issued under delegated authority in region, including the payment, but not denial, of claims.

4. To take all actions necessary to mitigate losses.

D. *Size determinations.* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

E. *Eligibility determinations.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC program, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

F. *Administration.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

3. In connection with the establishment to Disaster Loan Offices, to obligate Small Business Administration to reimburse the General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

G. *Chiefs, Financial Assistance Division (and Assistant Chiefs, if assigned).* 1. Size determinations for financial assistance only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are met by contracting officers.

2. Eligibility determinations for financial assistance only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

3. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

4. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an addi-

tional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $350,000, and to decline them in any amount.

5. To close and disburse approved business, economic opportunity, and disaster loans.

6. To enter into business, economic opportunity, and disaster loan participation agreements with banks.

7. To execute loan authorizations for Central Office, area, and regional approved loans and loans approved under the delegated authority, said execution to read as follows:

(Name), Administrator,
By ---
(Name)
Title of person signing.

8. To cancel, reinstate, modify and amend authorizations for business, economic opportunity, and disaster loans.

9. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

10. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

11. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

12. To take all necessary actions in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privileges under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

H. *Supervisory Loan Officer and/or Assistance Team Leader.* 1. To close and disburse approved business, economic opportunity and disaster loans.

2. To enter into business, economic opportunity, and disaster loan participation agreements with banks.

3. To execute loan authorizations for Central Office, area, and regional approved loans, said execution to read as follows:

(Name), Administrator,
By ---
(Name)
Title of person signing.

4. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity and disaster loans.

5. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

6. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance on construction loans and loans involving accounts receivable and inventory financing.

8. To take all necessary actions in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privileges under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

9. Size determinations for financial assistance only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

10. Eligibility determinations for Financial assistance only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

I. *Loan Officer (Financial Assistance).* 1. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

2. To close and disburse approved business, economic opportunity, and disaster loans.

J. *Chief, Development Company Assistance Division.* 1. To close and disburse sections 501 and 502 loans.

2. To extend the disbursement period on sections 501 and 502 loans, authorizations or undisbursed portions of sections 501 and 502 loans.

3. To execute sections 501 and 502 loan authorizations for Central Office, area, and regional approved loans, said execution to read, as follows:

(Name), Administrator
By _____
(Name)
Chief, Development Company Assistance Division.

4. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

5. To take all necessary actions in connection with the administration, servicing, and collection; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on an interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank application for use of liquidity privilege under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration, under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

6. To enter into section 502 loan participation agreements with banks.

7. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

K. *Loan Officer (Development Company Assistance).* 1. To close and disburse sections 501 and 502 loans.

2. To extend the Disbursement period on sections 501 and 502 loans.

3. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

4. To approve final actions concerning current direct, participation, and First Mortgage Plan 502 loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to applications against premiums.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

5. To enter into section 502 loan participation agreement with banks.

6. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participating authorization.

L. *Regional Counsel [Reserved].*

M. *Chief, Accounting, Clerical, and Training Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorney in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

**5. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, and disaster loans.

**6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans, except sections 501 and 502 loans.

**7. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorizations.

d. Adjustment of interest payment dates.

e. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

f. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

N. *Assistant Chief, Accounting, Clerical, and Training Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorney in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

III. *Branch Manager (Lower Rio Grande Valley Branch Office)*—A. *Financial assistance.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To approve or decline disaster direct and immediate participation loans up to the total SBA share of

(a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $500,000, and to decline them in any amount.

3. To close and disburse approved business, economic opportunity, and disaster loans.

4. To enter into business, economic opportunity, and disaster loan participation agreements with banks.

5. To execute loan authorizations for Central Office, area, and regional approved loans and loans approved under the delegated authority, said execution to read as follows:

(Name), Administrator
By _____
(Name)
Branch Manager, (City).

6. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, and disaster loans.

7. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

8. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank

that such documents are in compliance with the participation authorization.

9. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance on construction loans and loans involving accounts receivable and inventory financing.

10. To take all necessary actions in connection with the administration, servicing and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted power, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents, and applications therefor, licenses, certificates of stock and deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privileges under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

B. *Size determinations for financial assistance only.* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classifications decisions for procurement purposes are met by contracting officers.

C. *Eligibility determinations for financial assistance only.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

D. *Administration.* 1. To purchase reproductions of loan documents, chargeable to the revolving funds, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

E. *Supervisory Loan Officer and/or Assistance Team Leader.* 1. To close and disburse approved business, economic opportunity and disaster loans.

2. To enter into business, economic opportunity, and disaster loan participation agreements with banks.

3. To execute loan authorizations for Central Office, area, and regional approved loans, said execution to read as follows:

(Name), Administrator
By _____
(Name)
Title of person signing.

4. To cancel, reinstate, modify, and amend authorization for business, economic opportunity and disaster loans.

5. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

6. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance on construction loans and loans involving accounts receivable and inventory financing.

8. To take all necessary actions in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quit-claim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privileges under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

9. Size determinations for financial assistance only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

10. Eligibility determinations for financial assistance only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

F. *Loan Officer (Financial Assistance).* 1. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

2. To close and disburse approved business, economic opportunity, and disaster loans.

G. *Branch Counsel* [Reserved].

H. *Chief, Accounting, Clerical and Training Division.* 1. To purchase reproduction of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

**4. To cancel, reinstate, modify and amend authorizations for business, economic opportunity and disaster loans.

**5. To extend the disbursement period on all loan authorizations or undisbursed portions of loans, except sections, 501 and 502 loans.

**6. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorization.

d. Adjustment of interest payment dates.

e. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

f. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

I. *Assistant Chief, Accounting, Clerical & Training Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

IV. The specific authority delegated herein, indicated by double asterisks (**) cannot be redelegated.

V. The authority delegated herein to a specific position may be exercised by an SBA employee designated as Acting in that position.

VI. All previously delegated authority is hereby rescinded without prejudice to actions taken under such Delegations of Authority prior to the date hereof.

Effective date: November 7, 1969.

ROBERT E. WEST,
Area Administrator,
Southwestern Area.

[F.R. Doc. 70-20; Filed, Jan. 2, 1970; 8:46 a.m.]

TARIFF COMMISSION

FLAT GLASS AND TEMPERED GLASS

Report to the President

DECEMBER 29, 1969.

The Tariff Commission today reported to the President the results of its investigation of a petition for an increase in import restrictions on flat glass (sheet, plate, float, and rolled) and tempered glass filed by the principal domestic producers of such glass.

With respect to sheet glass, the Commission was divided into two equal groups. Chairman Sutton and Commissioners Clubb and Moore found (1) that such glass is, as a result in major part of trade-agreement concessions, being imported into the United States in such increased quantities as to cause serious injury to the domestic industry producing like or directly competitive articles; and (2) that increases in the rates of duty to the statutory rates are necessary to remedy the injury. Commissioners Thunberg, Leonard, and Newsom found that sheet glass is not, as a result in major part of trade-agreement concessions, being imported into the United States in such increased quantities as to cause or threaten serious injury to the domestic industry producing like or directly competitive articles. Under the law, the President may consider the findings of either group as the findings of the Commission.

With respect to plate glass, float glass, rolled glass, and tempered glass, the Commission found (Chairman Sutton and Commissioner Moore dissenting) that such products are not, as a result in major part of trade-agreement concessions, being imported into the United States in such increased quantities as to cause or threaten serious injury to the domestic industry or industries producing like or directly competitive articles.

The investigation (No. TEA-I-15) was conducted under the provisions of section 301(b)(1) of the Trade Expansion Act of 1962.

A part of the material contained in the Commission's report to the President may not be made public since it includes information that would disclose the operations of individual firms. The Commission, therefore, is releasing to the public only those portions of the report that do not contain such information.

Copies of the public report, which contains statements of the reasons for the Commissioners' findings, will be available for distribution early in January 1970 upon request as long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, 8th and E Streets NW., Washington, D.C. 20436.

By direction of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-21; Filed, Jan. 2, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

RAYMOND R. MANION

Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 F.R. 8769) "Providing for the Appointment of Certain Persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Office of the Federal Register for publication in the FEDERAL REGISTER the following information showing any changes in my financial interests and business connections as heretofore reported and published (30 F.R. 8809; 31 F.R. 930; 31 F.R. 13405; 32 F.R. 769; 32 F.R. 10786; 33 F.R. 522; 33 F.R. 10544; 33 F.R. 20067, and 34 F.R. 11341) for the 6 months' period ended January 3, 1970.

No change since last statement dated June 26, 1969.

R. R. MANION.

DECEMBER 24, 1969.

[F.R. Doc. 70-66; Filed, Jan. 2, 1970; 8:47 a.m.]

[S.O. 1002; Car Distribution Direction 74-A]

LOUISVILLE AND NASHVILLE RAILROAD CO. AND CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Car Distribution

Upon further consideration of Car Distribution Direction No. 74, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 74 be, and it is hereby vacated.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 29, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-67; Filed, Jan. 2, 1970; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction 70-A]

ST. LOUIS-SAN FRANCISCO RAILWAY CO. AND CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Car Distribution

Upon further consideration of Car Distribution Direction No. 70, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 70 be, and it is hereby vacated.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 29, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-68; Filed, Jan. 2, 1970; 8:48 a.m.]

[Notice 968]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 30, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13806 (Sub-No. 35 TA), filed December 12, 1969. Applicant: VIRGINIA HAULING COMPANY, Post Office Box 9525, Richmond, Va. 23228. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated tunnel support system including prefabricated structural beams, ribs, liner plates, angle spacers, support logging, posts, bolts and nuts*, from the plantsite and storage facilities of Commercial Shearing & Stamping Co., at Youngstown, Ohio, to the jobsite of East River Mountain Tunnel near North Gap, Bland County, Va., for 180 days. Supporting shipper: Commercial Shearing & Stamping Co., Youngstown, Ohio 44501. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-5-2 Federal Building, Richmond, Va. 23240.

No. MC 27063 (Sub-No. 18 TA), filed December 12, 1969. Applicant: LIBERTY TRANSFER COMPANY, INC., 1601 Cuba Street, Baltimore, Md. 21230. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Green coffee beans*, in bags, from Port Newark, N.J., and Port of New York, N.Y., to Landover, Md.; (2) *roasted coffee;* (a) from Landover, Md., to Fairlawn, Hawthorne, and Newark, N.J.; Elmsford, Garden City, and New York, N.Y.; and (b) from Baltimore, Md., to Elmsford and Garden City, N.Y., for 150 days. Supporting shipper: The Great Atlantic & Pacific Tea Co., Inc., General Traffic Department, 90 Delaware Avenue, Paterson, N.J. 07503. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1125 Federal Building, Charles Center, 31 Hopkins Place, Baltimore, Md. 21201.

No. MC 52110 (Sub-No. 114 TA), filed December 12, 1969. Applicant: BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, Iowa 50312. Applicant's representative: Homer E. Bradshaw, 11th Floor, Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as defined in sections A and C of appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles and except hides, from Council Bluffs, Iowa, to points in Maryland, New Jersey, New York, Pennsylvania, and Washington, D.C., for 180 days. Supporting shipper: Beefland International, Inc., 2700 23d Avenue, Council Bluffs, Iowa 55501. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 113024 (Sub-No. 82 TA), filed December 16, 1969. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C.20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products*, from the plantsite of Haveg Industries, Inc., Middletown, Del., to Delphos and Versailles, Ohio; Jacksonville, Ill.; Sherman, Tex., and Fresno, Calif., for account of Haveg Industries, Inc., for 180 days. Supporting shipper: Haveg Industries, Inc., Plastic Products Division, 900 Greenbank Road, Wilmington, Del. 19808, Daniel J. Ward, Traffic Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 113333 (Sub-No. 14 TA), filed December 16, 1969. Applicant: ARMORED CAR, INC., 2654 Poydras Street, New Orleans, La. 70119. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, and related money transfers*, between New Orleans, La., on the one hand, and, on the other, Fort Walton, Niceville, Panama City, De Funiak Springs, Crestview, and Milton, Fla., for 150 days. NOTE: Applicant states it does intend to tack with extension of authority granted in M.C.C. 113333, as revised. Supporting shipper: Federal Reserve Bank of Atlanta, New Orleans Branch, New Orleans, La. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 114045 (Sub-No. 330 TA), filed December 16, 1969. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic plastics liquid, and chemicals*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), for 180 days. NOTE: Applicant does not intend to tack with existing authority. Supporting shipper: The Upjohn Co., Kalamazoo, Mich. 49001. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 114897 (Sub-No. 85 TA), filed December 15, 1969. Applicant: WHITFIELD TANK LINES, INC., 300-316 North Clark Road, Post Office Drawer 9897, El Paso, Tex. 79989. Applicant's representative: J. P. Rose (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feedstuffs*, in bulk, in tank vehicles, from Farwell, Tex., to a point 18 miles north of Coalgate, Okla., for 150 days. Supporting shipper: Norman Smith, Manager, Loomix, Inc., Post Office Box 577, Farwell, Tex. 79325. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 115955 (Sub-No. 16 TA), filed December 16, 1969. Applicant: SCARI's DELIVERY SERVICE, INC., Post Office Box 2627, Wilmington, Del. 19804. Applicant's representative: Harry J. Scari (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unaccompanied baggage*, between Dover, Del., and New York, N.Y.; Newark, Port Newark, McGuire Air Force Base, and Fort Dix, N.J.; Washington, D.C.; Fort George G. Meade, and Fort Holabird, Md.; and Alexandria, Va.,

for 180 days. Supporting shipper: Department of Defense, Washington, D.C. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 118959 (Sub-No. 59 TA) filed December 12, 1969. Applicant: JERRY LIPPS, INC., 130 South Frederick, Cape Girardeau, Mo. 63701. Applicant's representative: Frank D. Hall, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic type, plastic tubing, plastic conduits, plastic moldings, plastic valves, plastic fittings, plastic siding, plastic compounds, plastic joint sealer, plastic bonding cement, and plastic accessories and materials used in the installation of such products* (except commodities in bulk), from McPherson, Kans., to points in the United States, except Alaska and Hawaii, and from Waco, Tex., to points in Arizona, California, Colorado, Nevada, Oklahoma, Arkansas, Louisiana, Alabama, Georgia, Florida, Kansas, and Mississippi, and New Mexico, for 180 days. Supporting shipper: Certain-Teed Products Corp., 500 West First Street, McPherson, Kans. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3248, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 124121 (Sub-No. 5 TA), filed December 16, 1969. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., Post Office Box 95, Railroad Street, Prentice, Wis. 54556. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from points in the town of Brighton, Marathon County, Wis., to points in the Upper Peninsula of Michigan, for 180 days. Supporting shipper: Midland Cooperatives, Inc., 739 Johnson Street NE., Minneapolis, Minn. 55413. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 444 West Main Street, Room 11, Madison, Wis. 53703.

No. MC 124221 (Sub-No. 26 TA), filed December 12, 1969. Applicant: HOWARD BAER, 821 East Dunne Street, Morton, Ill. 61550. Applicant's representative: Robert W. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, ice cream products, and delicatessen products*, from the dairy site and warehouse facilities of the Kroger Co. at Cincinnati, Ohio, to points in Alabama, Kentucky, Tennessee, Virginia, and West Virginia; and *out-dated, refused, or rejected merchandise, and plastic cases and shipping devices*, on return. Restriction: The operations proposed to be performed herein are limited to a transportation service to be performed under a continuing contract, or contracts, with the Kroger Co., for 180 days. Supporting shipper: The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 125708 (Sub-No. 121 TA), filed December 16, 1969. Applicant: HUGH MAJOR, 150 Sinclair Avenue, South Roxana, Ill. 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from Rome, Ga.; Bogalusa, La.; Charlotte, N.C.; Counce, Tenn.; to Centralia, Ill., for 180 days. Supporting shipper: Centralia Container Corp., Centralia, Ill. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 129089 (Sub-No. 3 TA), filed December 15, 1969. Applicant: MIDWEST MATERIAL SERVICE COMPANY, Foot of Mart, Muskegon, Mich. 49440. Applicant's representative: Edward De Graff (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint*, from Muskegon, Mich., to Kalamazoo, Albion, South Haven, and Cheboygan, Mich., on equipment having pneumatic hoists attached thereto, for 180 days. Supporting shipper: West Michigan Dock & Market Corp., Foot of Mart, Muskegon, Mich. 49440. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 129963 (Sub-No. 1 TA), filed December 16, 1969. Applicant: FANN McKELVEY, doing business as McKELVEY TRUCKING, 5420 West Missouri, Phoenix, Ariz. 85301. Applicant's representative: A. Michael Bernstein, 3550 North Central, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in California north of the northern boundary of San Luis Obispo, Kern, and San Bernardino Counties, Calif., to points in Arizona, for 180 days. Supporting shipper: Capitol Lumber & Supply Co., Post Office Box 6336, 200 South 35th Avenue, Phoenix, Ariz. 85005. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85205.

No. MC 133138 (Sub-No. 4 TA), filed December 15, 1969. Applicant: INTER-ISLAND GARMENT CARRIERS, INC., 18 Stegman Court, Jersey City, N.J. 07305. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are handled, used, sold, and dealt in by chain grocery, department, or discount stores*, between the facilities and warehouses of Vornado, Inc., at Hanover and Garfield, N.J., on the one hand, and, on the other, points in the New York, N.Y., commercial zone as defined by the Commission, for 150 days. Supporting shipper: Vornado, Inc., 174 Passaic Street, Garfield, N.J. 07026. Send protests to: District Supervisor Walter J. Grossmann, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 133453 (Sub-No. 6 TA), filed December 15, 1969. Applicant: M. MILESTONE, INC., Delaware Avenue and Jackson Street, Philadelphia, Pa. 19105. Applicant's representative: John H. Derby, 2122 Cross Road, Glenside, Pa. 19038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, materials, and supplies used in the manufacture of beverages*, from Bound Brook, Carlstadt, Elizabeth, and Linden, N.J.; Baltimore, Md.; Farmingdale, Jamaica, Mount Kisco, Newburgh and Rochester, N.Y.; Norfolk and Richmond, Va.; Norton and Worcester, Mass.; to Philadelphia, Pa., for 180 days. Supporting shipper: Boulevard Beverage Co., 2000 Bennett Road, Philadelphia, Pa. 19116. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 133453 (Sub-No. 7 TA), filed December 15, 1969. Applicant: M. MILESTON, INC., Delaware Avenue and Jackson Street, Philadelphia, Pa. 19105. Applicant's representative: John H. Derby, 2122 Cross Road, Glenside, Pa. 19038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, in containers, from Philadelphia, Pa., to Atlantic City, Neptune, Trenton, N.J.; New Castle and Wilmington, Del.; Silver Spring, Md. and Maspeth, Long Island, N.Y., for 180 days. Supporting shipper: Canada Dry Corp., Whitaker Ave. and Foulkrod Street, Philadelphia, Pa. 19124. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets. Philadelphia, Pa. 19106.

No. MC 134010 (Sub-No. 1 TA), filed December 12, 1969. Applicant: BENJAMIN J. THOMPSON, JR. and MARLYN M. THOMPSON, doing business as THOMPSON TRUCKING SERVICE, 2560 42d Street, Pennsauken, N.J. 08110. Applicant's representative: Alan Kahn, Suite 1920, Two Penn Center Plaza, John F. Kennedy Boulevard at 15th Street, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between points in Philadelphia, Pa., and Camden, N.J., on the one hand, and, on the other, points in the boroughs of Manhattan, Bronx, Queens, Richmond, and Brooklyn and the county of Orange, N.Y.; Delaware, Maryland, and Pennsylvania. Restriction: The operation above to be limited to a transportation service to be performed under a

continuing contract or contracts with Concrete Steel Co., New York, N.Y., and Thomas Howard Doolan, Inc., Philadelphia, Pa., for 180 days. Supporting shipper: Concrete Steel Co., 2 Park Avenue, New York, N.Y.; and Thomas Howard Doolan, Inc., South Delaware Avenue and Wolf Street, Philadelphia, Pa. 19148. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 134206 (Sub-No. 1 TA), filed December 12, 1969. Applicant: F & K MILK SERVICE, INC., Post Office Box 67, Union Grove, Wis. 53182. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in Appendix I to the *Descriptions Case*, 61 M.C.C. 209, 272, 273; *cottage cheese, yogurt, sour cream, synthetic creams, puddings, fruit drinks, and uncarbonated beverages* (except in bulk), from Milwaukee and Whitewater, Wis., to South Beloit, Mt. Morris, Woodstock, Richmond, and Zion, Ill.; restricted to transportation to be performed under contract with Hawthorn-Mellody, Inc., Chicago, Ill., for 180 days. Supporting shipper: Hawthorn-Mellody, Inc., Chicago Avenue at Keeler, Chicago, Ill. 60651 (W. R. Lahvic, vice president, distribution and planning). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

By the Commission.

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

[F.R. Doc. 70-69; Filed, Jan. 2, 1970; 8:48 a.m.]

[Notice 470]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 30, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-71767. By order of December 19, 1969, the Motor Carrier Board approved the transfer to The Big (M) Trucking Co., Inc., Bloomfield, N.J., of Certificate No. MC-76328 issued January 5, 1954, to John J. O'Connell, Inc., Brooklyn, N.Y., authorizing the transportation of: Paper, paper products, books, and printed matter, between New York, N.Y., and points in New Jersey within 25 miles thereof. Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306, representative for applicants.

No. MC-FC-71772. By order of December 22, 1969, the Motor Carrier Board approved the transfer to Eugene W. Walat and Eugene A. Walat, a partnership, doing business as Henry T. Walat Trucking, Chicopee Falls, Mass.; of certificate of registration in No. MC-56933 (Sub-No. 1), issued October 31, 1963 to Henry T. Walat, doing business as Henry T. Walat Trucking, Chicopee Falls, Mass.; authorizing the transportation of: general commodities anywhere within the Commonwealth of Massachusetts, William L. Mobley, 1694 Main Street, Springfield, Mass. 01103, representative for applicants.

No. MC-FC-71791. By order of December 19, 1969, the Motor Carrier Board approved the transfer to Indian River Transport Company, a corporation, doing business as Indian River Transport Inc., Fort Pierce, Fla., of the certificates in Nos. MC-109708 (Sub-No. 2), MC-109708 (Sub-No. 4), MC-109708 (Sub-No. 7), MC-109708 (Sub-No. 8), MC-109708 (Sub-No. 13), MC-109708 (Sub-No. 15), MC-109708 (Sub-No. 18), MC-109708 (Sub-No. 20), MC-109708 (Sub-No. 26), MC-109708 (Sub-No. 27), MC-109708 (Sub-No. 30), MC-109708 (Sub-No. 32), MC-109708 (Sub-No. 34), MC-109708 (Sub-No. 37), MC-109708 (Sub-No. 39), MC-109708 (Sub-No. 40), and MC-109708 (Sub-No. 43), issued October 26, 1954, September 30, 1957, June 19, 1959, September 13, 1961, June 27, 1962, March 14, 1963, March 14, 1963, March 14, 1964, November 16, 1964, February 28, 1964, November 25, 1964, November 23, 1964, September 24, 1964, February 26, 1965, February 18, 1966, July 13, 1967, and November 21, 1967, respectively to Erwin J. Kramer, doing business as Maryland Tank Transportation Co., Elkridge, Md., authorizing the transportation of various specified bulk commodities from and to points in the states of Pennsylvania, New York, Minnesota, Ohio, South Carolina, Vermont, Kentucky, Alabama, Connecticut, New Jersey, Virginia, North Carolina, Tennessee, Indiana, Illinois, Massachusetts, Michigan, Mississippi, Wisconsin, Georgia, and the District of Columbia.

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

[F.R. Doc. 70-70; Filed, Jan. 2, 1970; 8:48 a.m.]

Title 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

EDITORIAL NOTE: After the adjournment of the Congress *sine die*, and until all public acts have received final Presidential consideration, a listing of public laws approved by the President will appear in the daily FEDERAL REGISTER under Title 2—The Congress. A consolidated listing of the new acts approved by the President will appear in the Daily Digest in the final issue of the Congressional Record covering the 91st Congress, First Session.

Approved December 30, 1969

S.J. Res. 154 ..... Public Law 91-174
Joint Resolution to authorize and request the President to proclaim the month of January 1970 as "National Blood Donor Month."

H.R. 14580 ..... Public Law 91-175
Foreign Assistance Act of 1969.

H.J. Res. 764 ..... Public Law 91-176
Joint Resolution to authorize appropriations for expenses of the President's Council on Youth Opportunity.

S. 3016 ..... Public Law 91-177
Economic Opportunity Amendments of 1969.

H.R. 9334 ..... Public Law 91-178
An Act to amend title 38, United States Code, to promote the care and treatment of veterans in State veterans' homes.

H.R. 14227 ..... Public Law 91-179
An Act to amend section 1401a(b) of title 10, United States Code, relating to adjustment of retired pay to reflect changes in Consumer Price Index.

H.R. 15071 ..... Public Law 91-180
An Act to continue for two additional years the duty-free status of certain gifts by members of the Armed Forces serving in combat zones.

S. 740 ..... Public Law 91-181
An Act to establish the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes.

H.J. Res. 1041 ..... Public Law 91-182
Joint Resolution establishing that the second regular session of the Ninety-first Congress convene at noon on Monday, January 19, 1970.

H.R. 944 ..... Public Law 91-183
An Act to amend section 404(d) of title 37, United States Code, by increasing the maximum rates of per diem allowance and reimbursement authorized, under certain circumstances, to meet the actual expenses of travel.

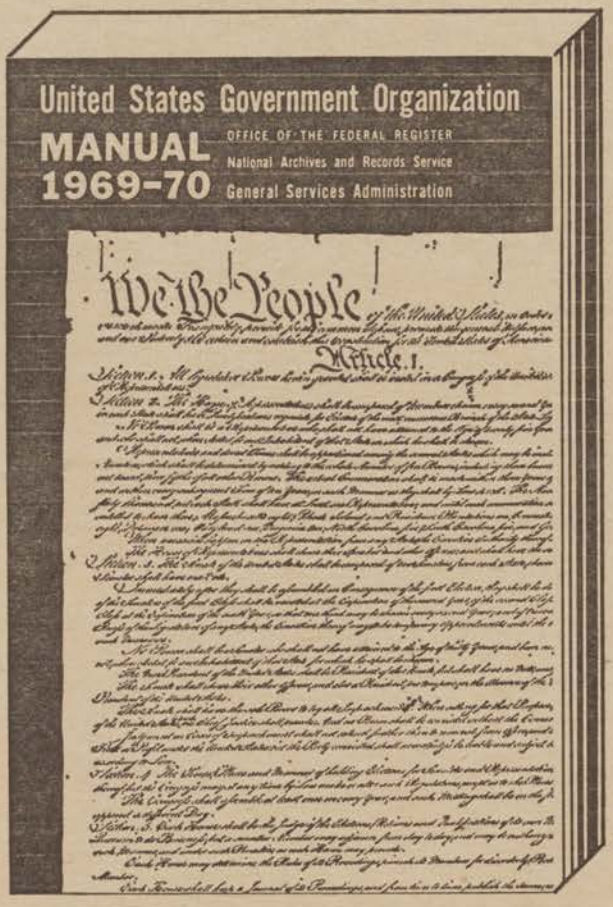
H.R. 4293 ..... Public Law 91-184
Export Administration Act of 1969.

H.R. 14571 ..... Public Law 91-185
An Act to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes.

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January.

United States Government Organization MANUAL 1969–70



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